

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-41297
Summary Calendar

JAMES O'DELL WALTON,

Plaintiff-Appellant,

versus

GARY L. JOHNSON; ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-96-CV-640
- - - - -

November 24, 1998

Before GARWOOD, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:*

James O'Dell Walton, Texas prisoner # 651346, seeks to remove his case from the district court to this court. Walton asserts that the magistrate judge to whom his case has been assigned is conspiring with the defendants to thwart his civil rights action brought pursuant to 42 U.S.C. § 1983.

This appeal is premature because no final order has yet been entered with regard to Walton's claims. See Dillon v. State of Mississippi Military Dep't, 23 F.3d 915, 917 (5th Cir. 1994); 28

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

U.S.C. § 1291. As a result, this court lacks jurisdiction even to consider this appeal. Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545 (1949). This appeal is, moreover, frivolous, and is hereby DISMISSED. 5th Cir. R. 42.2.