

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-60317
Conference Calendar

CLEVELAND CLAY ARMOND,

Plaintiff-Appellant,

versus

TERRY CARNEY; PATTY LYNE CARNEY; JOHN DOE,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:97-CV-167WS
- - - - -

December 9, 1997

Before BARKSDALE, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Cleveland Clay Armond, Mississippi prisoner #34189, appeals the dismissal as frivolous of his pro se, in forma pauperis civil-rights lawsuit against his former father-in-law, Terry Carney; his ex-wife, Patty Lyne Carney; and her present husband, identified only as John Doe (collectively referred to as "the defendants"). Armond argues that the district court erred in concluding that he had failed to allege any state action in connection with his allegation that the defendants violated his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

constitutional rights during the course of having his parental rights judicially terminated.

Armond has failed to allege that the defendants acted under the color of law, and his claim is therefore not actionable under 42 U.S.C. § 1983. See Adickes v. S.H. Kress & Co., 398 U.S. 144, 150 (1970). His appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is dismissed. See 5th Cir. R. 42.2.

Armond is cautioned that the filing of any additional frivolous lawsuits or appeals will result in his being barred from proceeding in forma pauperis pursuant to the Prison Litigation Reform Act, 28 U.S.C. § 1915(g).

DISMISSED.