

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-31389  
Conference Calendar

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RUBY EDNA GAGE, individually and on behalf of Jenny Gage,  
on behalf of Joshua Gage; WILLIAM GAGE, individually and on  
behalf of Jenny Gage, on behalf of Joshua Gage,

Plaintiffs-Appellants,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 97-CV-1765  
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August 24, 1999

Before KING, Chief Judge, and DAVIS and SMITH, Circuit Judges.

PER CURIAM:\*

The plaintiffs\*\* have appealed, pro se, the summary judgment dismissal of a Federal Tort Claims Act suit alleging medical and dental malpractice by United States Air Force health care providers. Mrs. Gage argues in her primary brief that a retained attorney drafted the initial complaint ineffectively; that she

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

\*\* We assume, without deciding, that the pro se brief signed by Mrs. Edna Gage was also effective as to her husband and minor children. See 5th Cir. R. 28.6; see also FED. R. APP. P. 3(c)(2).

was not allowed to talk to the district judge to explain the facts of the case; and that she believes that she and her family have been treated unfairly.

Allegations of negligence or malpractice by counsel are not a basis for appellate relief in a civil action. Sanchez v. U.S. Postal Serv., 785 F.2d 1236, 1237 (5th Cir. 1986). The district judge was not required to discuss the case with Mrs. Gage personally. Mrs. Gage's belief that she has been treated unfairly fails to establish error by the district court.

In her reply brief, Mrs. Gage argues for the first time that the district court failed to consider an amended complaint. This court does not consider arguments which a party does not include in his or her primary brief. Campbell v. Keystone Aerial Surveys, Inc., 138 F.3d 996, 1005 n. 12 (5th Cir. 1998). We note, nevertheless, that the record shows that the district court addressed the substantive allegations raised in the amended complaint.

Because the appeal does not involve an issue of arguable legal merit, it is DISMISSED AS FRIVOLOUS. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. We caution the Gages that any additional appeals filed by them or on their behalf will invite the imposition of sanctions. To avoid sanctions, the Gages should review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.