

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-40876  
Conference Calendar

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KERRY EUGENE OSWALT,

Plaintiff-Appellant,

versus

WAYNE SCOTT; A. COLLINS; GARY J.  
GOMEZ, Director; LAPOINTE, Captain;  
M. GEERDES; Lieutenant; JACOBY, Lieutenant;  
LOMO, Doctor; QUACKENBUSH, Doctor; LUMPKINS,  
Captain; ARNOLD, Warden,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. G-96-CV-195  
- - - - -

February 11, 1999

Before BARKSDALE and EMILIO M. GARZA, Circuit Judges.\*

PER CURIAM:\*\*

Kerry Eugene Oswald, Texas prisoner # 731742, appeals the district court's dismissal of his 42 U.S.C. § 1983 action as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). Oswald argues that the district court abused its discretion in dismissing his § 1983 action as frivolous. He contends that he

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\*This matter is being decided by a quorum. 28 U.S.C. § 46(d).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

was wrongly assigned to work in the fields as he was not sentenced to a period of imprisonment at hard labor; he argues that requiring him to work in the fields is in effect the imposition of additional punishment at hard labor or involuntary servitude. Oswalt also argues that as a result of his refusal to work, disciplinary proceedings were brought against him and he lost good-time credits and other privileges. Oswalt has identified no error in the district court's dismissal. Oswalt v. Scott, No. G-96-CV-195 (S.D. Tex. June 29, 1998). Because Oswalt's appeal fails to present a nonfrivolous issue, his appeal is dismissed as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2. Oswalt is cautioned that future frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. Oswalt is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED AS FRIVOLOUS; SANCTIONS WARNING ISSUED.