

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-51118
Summary Calendar

KEITH RUSSELL JUDD,

Plaintiff-Appellant,

versus

U.S. DISTRICT COURT; L. STUART PLATT,
U.S. Magistrate; W. ROYAL FURGESON, JR.,
U.S. District Judge,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. MO-98-CV-167

November 9, 2000

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

In his appeal No. 98-51118, arising out of his civil rights lawsuit, Keith Russell Judd, federal prisoner # 11593-051, attempts to challenge a magistrate judge's order requiring him to submit to a psychiatric examination in a related criminal case, MO-98-CR-93-F. His attempt to directly appeal that order was dismissed by this court for lack of jurisdiction or, alternatively, as moot. See United States v. Judd, No. 98-50954 (5th Cir. Nov. 3, 1998) (unpublished). The clerk of this court sent Judd a special

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

briefing notice directing him to address whether the order is appealable in this civil rights case and whether the present appeal is also moot; however, Judd has not responded to the briefing notice and has thus waived the argument. See Cinel v. Connick, 15 F.3d 1338, 1334 (5th Cir. 1994).

There is no final, appealable order in the instant civil rights case for this court to review. See 28 U.S.C. § 1291. Alternatively, because Judd has already undergone the challenged psychiatric evaluation, the issue is moot. His appeal is wholly without arguable merit and is DISMISSED as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. Judd's motions to consolidate appeals, for release pending appeal, to expedite his appeal, for oral argument, for hearing en banc, to transfer his appeal, for extraordinary relief, and for summary judgment are DENIED.

Judd has previously been warned that the filing of future frivolous appeals would invite sanctions. See Judd v. University of New Mexico, No. 97-50242 (5th Cir. Dec. 9, 1997)(unpublished). After ignoring that admonition, Judd was sanctioned \$105 for pursuing a frivolous appeal, which sanction has not yet been paid. See Judd v. University of New Mexico, No. 98-51060 (5th Cir. May 13, 1999)(unpublished). Judd filed the instant appeal before the sanction order was imposed. Because Judd continues his pattern of filing frivolous appeals despite this court's warnings, he is again ORDERED to pay a sanction in the amount of \$105, payable to the clerk of this court, thereby doubling the amount of the sanction he owes. See Coghlan v. Starkey, 852 F.2d 806, 808 (5th Cir.

1988)(this court may impose sanctions on a litigant sua sponte). The clerk of this court and the clerks of all federal district courts within this Circuit are DIRECTED to refuse to file any pro se civil complaint or appeal by Judd unless Judd submits proof of satisfaction of this sanction.

APPEAL DISMISSED; MOTIONS DENIED; SANCTION IMPOSED.