

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 92-2491
Summary Calendar

DAVID RUIZ, ET AL.,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

VERSUS

JAMES A. COLLINS, ET AL.,

Defendants-Appellees,

VERSUS

LLOYD A. SIMON,

Movant-Appellant.

Appeal from the United States District Court
For the Southern District of Texas

(CA-H-79-1958 c/w 79-2117)

(October 14, 1994)

Before KING, JOLLY and DeMOSS, Circuit Judges.

PER CURIAM:*

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

BACKGROUND

Lloyd A. Simon filed a complaint against numerous prison officials alleging that they conspired to violate his civil rights. On March 6, 1990, the district court entered judgment for the defendants based on the jury verdict rendered on February 9, 1990. Simon filed a notice of appeal and a motion for new trial on February 14, 1990. The district court denied the motion for a new trial on March 13, 1990, and Simon did not file a new notice of appeal. This Court dismissed the appeal for lack of jurisdiction because, under Fed. R. App. R. 4(a)(4) the notice of appeal was nullified by the timely Rule 59(e) motion for a new trial.

After Simon's appeal was dismissed, he filed in the district court a motion to transfer the records of his case to the Ruiz court. This motion was denied. Judge William Wayne Justice also denied his motion, which apparently was filed in the Ruiz court, to obtain relief through the Ruiz court, and denied his motion for the United States Justice Department to intervene in his litigation. Simon filed a notice of appeal from the two orders issued by Judge Justice.

In his pro se brief Simon appears to argue that the district court improperly entered judgment for the defendants on the jury verdict. This appeal was dismissed on April 4, 1990, and therefore this Court has no jurisdiction to address these arguments. To the extent that Simon may have filed a timely notice of appeal from the

orders issued by Judge Justice,¹ the only issue properly before the Court is facially frivolous. Simon cannot require the U.S. Attorney General to intervene in litigation which had been terminated before he filed his motion.

Simon has also filed a variety of documents including a motion for "transmission to a three judge panel or transmission to an en banc court," objections to the clerk's office extension of time, motion for summary judgment and default judgment, leave to file objections to the Appellees' supplemental brief and a motion for a show cause order, motion to proceed IFP, supplement in support of presented questions; and objections to the district court's deletion of a cover letter on a document and the service of his pleadings to his withdrawn counsel. Because this Court does not have jurisdiction over the appeal from the jury trial and the issues raised in these motions address the propriety of that judgment, these motions are denied as moot.

We have previously warned Simon that he should not continue to file frivolous motions with this Court. Simon has failed to heed this warning. Accordingly, we hereby levy a sanction on Simon in the amount of \$100; and instruct the Clerk of this Court to reject

¹The orders issued by Judge Justice were entered on April 3, 1992, and May 27, 1992, respectively. Simon filed his notice of appeal on June 11, 1992. Therefore, although the notice of appeal would be timely as to the second order, it would be untimely as to the first order. See Fed. R. App. P. 4(a)(1) (notice of appeal must be filed within 30 days of entry of the order appealed from).

any further filings by Simon until Simon satisfies this sanction by payment of the sum of \$100 to the Clerk.

DISMISSED.