

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-50303
Summary Calendar

JOHNNY ROBINSON,

Plaintiff-Appellant,

versus

DOUGLAS BANNISTER,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-93-CV-117
- - - - -
July 17, 1995

Before JOLLY, DAVIS and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Johnny Robinson has applied for leave to appeal in forma pauperis (IFP) the district court's order dismissing his action for failure to provide sufficient information to effect service on defendant Douglas Bannister, pursuant to Fed. R. Civ. P. 4(m). To be granted leave to appeal IFP, Robinson must demonstrate that

* 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 Pursuant to that Rule, the court has determined that this opinion should not be published.

he will present a nonfrivolous issue on appeal. Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982).

Robinson argues that he has raised claims cognizable for relief under § 1983 when he alleged that defendant Bannister used excessive force against him. Robinson does not challenge whether the district court properly dismissed his action pursuant to Rule 4(m) for failure to provide sufficient information to have Bannister served within 120 days, which is the only proper issue on appeal. Consequently, he does not address the correct issue on appeal. Therefore, this court need not consider it. See Brinkmann v. Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Because Robinson has failed to identify a non-frivolous issue, the motion for leave to proceed IFP on appeal is DENIED and the appeal is DISMISSED. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R.42.2.