

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3485
Conference Calendar

SIDNEY NMI MARTS,

Plaintiff-Appellant,

versus

JOHN P. WHITLEY,
Warden, Louisiana State Penitentiary,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 93-425-B-M2

(October 28, 1993)

Before POLITZ, Chief Judge, and SMITH and WIENER, Circuit Judges.

PER CURIAM:*

Sidney Marts's civil rights action challenging the length of his confinement was properly stayed pending exhaustion of state and federal habeas remedies. Serio v. Members of La. State Bd. of Pardons, 821 F.2d 1112, 1117 (5th Cir. 1987). Marts does not allege that he sought federal habeas relief. He does not explain how he could have exhausted his Louisiana habeas remedies by

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

filing in Nevada, as he alleged. See Dupuy v. Butler, 837 F.2d 699, 702 (5th Cir. 1988); La. Rev. Stat. 15:571.15 (West 1992); La. Code Crim. P. art. 925 (West 1984); Bartie v. Louisiana, 501 So. 2d 260, 264 (La. Ct. App. 1986). Marts's appeal is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); see 5th Cir. R. 42.2.

APPEAL DISMISSED.