

FILED

June 20, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-10006
Summary Calendar

CRISTIAN L. CETINA,

Plaintiff-Appellant,

versus

SUPER TARGET; RICK FISHER,

Defendants-Appellees.

CRISTIAN L. CETINA,

Plaintiff-Appellant,

versus

SUPER TARGET,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:04-CV-1475
USDC No. 3:04-CV-1497

Before SMITH, GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Cristian L. Cetina seeks leave to proceed in forma pauperis (IFP) in his appeal of the dismissal of his civil complaint, in which he alleged that the defendants violated his rights by

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

discriminating against him on the basis of his mental disability. To proceed IFP, Cetina must demonstrate financial eligibility and a nonfrivolous issue for appeal. FED. R. APP. P. 24(a); Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982).

Cetina contends that the district court erred in finding that he is not disabled for purposes of the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964 (Title VII). Cetina has asserted that he is mentally disabled because he suffers from depression and panic disorder. He submitted a letter from a doctor stating that he is under treatment for those conditions. However, Cetina did not allege facts sufficient to show that he is disabled for purposes of the ADA and Title VII. See 42 U.S.C. § 12102(2); 29 C.F.R. § 1630.2(i); Waldrip v. General Elec. Co., 325 F.3d 652, 654 (5th Cir. 2003).

Cetina also contends that the district court erred in dismissing his Title VII claim because the defendants discriminated against him based on his race. We will not consider this claim, however, as Cetina did not raise any claims of racial discrimination in the district court. See Leverette v. Louisville Ladder Co., 183 F.3d 339, 342 (5th Cir. 1999).

IT IS ORDERED that Cetina's motion for leave to proceed IFP is denied because he has not shown that the district court erred in finding that his appeal was not taken in good faith. See Carson, 689 F.2d at 586. Cetina's appeal is frivolous, and it is

dismissed. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

IFP DENIED; APPEAL DISMISSED AS FRIVOLOUS.