

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20184
Summary Calendar

JOHNNY DWAYNE STATEN,

Plaintiff-Appellant,

versus

ARRON E. HICKSON, Major; T. HENDERSON, Captain;
OFFICER DICKSON,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-98-CV-1026

September 21, 2000

Before JOLLY, JONES, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Johnny Dwayne Staten (#682286), a state prisoner, has appealed the district court's order denying his Fed. R. Civ. P. 60(b) motion. The order is reviewed for an abuse of discretion. See Maddox v. Runyon, 139 F.3d 1017, 1019 (5th Cir. 1998).

This court's sanction order in Staten v. Pruitt, No. 97-10396 (5th Cir. Apr. 16, 1998) (unpublished), barred Staten from filing in forma pauperis appeals or initial civil pleadings only. Accordingly, the district court abused its discretion by relying

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

upon the sanction order in denying the Rule 60(b) motion. See also Hatchet v. Nettles, 201 F.3d 651, 652-54 (5th Cir. 2000). The order is VACATED, and the case is REMANDED for further proceedings.

Staten has requested injunctive relief and has moved for appointment of counsel. Because the case is being returned to the district court, the request is DENIED. Staten has not shown that this case involves exceptional circumstances requiring appointment of counsel. See Ulmer v. Chancellor, 691 F.2d 209, 212 (5th Cir. 1982). The request for appointment of counsel is DENIED.

VACATED AND REMANDED; MOTIONS DENIED.