

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-40317
Conference Calendar

OSCAR M. FALCON, JR.,

Plaintiff-Appellant,

versus

LARRY A. JOHNS, Warden, Michael Unit; DENNIS K. BLEVINS,
Assistant Warden, Michael Unit; LANDON B. SLIMP, Correctional
Officer III, Michael Unit; UNIDENTIFIED, Food Service
Manager(s); ALBERT D. NORMAN, Correctional Officer III,
Michael Unit,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:99-CV-544

October 17, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Oscar M. Falcon, Jr., Texas prisoner # 537565, appeals from the district court's judgment dismissing without prejudice his civil rights complaint under 42 U.S.C. § 1983. On appeal Falcon seeks to have the district court grant his motion under Fed. R. Civ. P. 41(a) to voluntarily dismiss his complaint without prejudice. Falcon seeks on appeal that which has already been granted by the district court in its judgment, the dismissal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

without prejudice of his complaint. There is no additional relief which this court may grant in this case.

"Whether an appeal is moot is a jurisdictional matter, since it implicates the Article III requirement that there be a live case or controversy." Bailey v. Southerland, 821 F.2d 277, 278 (5th Cir. 1987). "In the absence of its being raised by a party, this court is obliged to raise the subject of mootness sua sponte." Id. There is no controversy to be resolved in this appeal. Accordingly, the appeal is DISMISSED AS MOOT.

APPEAL DISMISSED AS MOOT.