

June 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-11002
Summary Calendar

MICHAEL SCOTT BUTLER,

Plaintiff-Appellant,

versus

ALEJANDRO MUNOZ, M.D.; ALEXANDER KALMANOV, M.D.; ANNE ESCOLERA,
R.N.; NFN ORE, M.D.; CATHERINE BENNETT, R.N.; OWEN MURRAY,
Associate Medical Director; CLEOFE PALMA, Sergeant;
HARRY EDWARDS, Health Administrator; JOHN COLE, JR., Sergeant;
ERIC MORGAN, Sergeant; NFN HUMPHREY, Correctional Officer;
ERIK PRICE, Correctional Officer; ROBERT TREON, Warden,
Allred Unit; KENNETH BRIGHT, Major; TINA L. CARROLL, Grievance
Investigator II; CORRECTIONAL HEALTH SERVICE,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 7:01-CV-172-R

Before JOLLY, WIENER, and PICKERING, Circuit Judges.

PER CURIAM:*

Michael Scott Butler, Texas prisoner # 574009, appeals the
FED. R. CIV. P. 11 dismissal with prejudice of his 42 U.S.C.
§ 1983 complaint for providing false information concerning his
litigation history. We hold that the district court's choice of

* 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that this opinion should not be published and is not precedent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.

sanction "exceed[ed] the bounds of discretion" of Fifth Circuit jurisprudence. See Mendoza v. Lynaugh, 989 F.2d 191, 195-97 (5th Cir. 1993); cf. Mayfield v. Klevenhagen, 941 F.2d 346, 348 (5th Cir. 1991). The district court must impose the least severe sanction adequate. Mendoza, 989 F.2d at 197. The judgment of dismissal is therefore VACATED and the case REMANDED for imposition of a less onerous sanction.

VACATED AND REMANDED.