

April 5, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-11331
Summary Calendar

ELIGAH DARNELL, JR

Plaintiff - Appellant

v.

TERRY LEWIS, Assistant District Attorney, Tarrant County, JAMES HUDSON, Assistant District Attorney, Tarrant County; JERRY L WOOD

Defendants - Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:04-CV-629

Before KING, Chief Judge, and DAVIS and STEWART, Circuit Judges.

PER CURIAM:*

Eligah Darnell, Jr., Texas state prisoner # 0279245, appeals the district court's judgment dismissing with prejudice his 42 U.S.C. § 1983 complaint unless Darnell pays monetary sanctions of \$150. Darnell argues that he inadvertently erroneously answered a question in the complaint concerning prior lawsuits that he had filed.

A district court may sua sponte dismiss an action for failure to prosecute or to comply with any court order.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

FED. R. CIV. P. 41(b); McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988). A review of this record and prior suits filed by Darnell reflect that Darnell engaged in contumacious behavior warranting the sanctions imposed. Because it is clear that Darnell deliberately misled the district court in his response to the inquiry in the complaint and also continued to do so when asked to show cause, the district court did not abuse its discretion in imposing the sanction of dismissal pending payment of a monetary sanction. The dismissal is AFFIRMED.

Darnell's motion for appointment of counsel is DENIED.