

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-4431

KOU LO VANG,

Plaintiff-Appellant,

versus

JAMES A. LYNAUGH, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the
Eastern District of Texas
(6:90cv572)

March 19, 1993

Before WISDOM¹, GARWOOD and HIGGINBOTHAM, Circuit Judges.²

PER CURIAM:

The district court required plaintiff-appellant Kou Lo Vang (Vang) to pay a partial filing fee of \$50 notwithstanding Vang's application to proceed *in forma pauperis* in Vang's instant suit under 42 U.S.C. § 1983. Vang paid the \$50. The district court

¹Because of illness, Judge John Minor Wisdom was not present at the oral argument of this case; however, having had available the tape of oral argument, he participated in this decision.

²Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

then dismissed Vang's suit as frivolous under 28 U.S.C. § 1915(d), without issuing any process or receiving any answer, motion, or appearance from any of the named defendants. In these circumstances, under our decision in *Grissom v. Scott*, 934 F.2d 656 (5th Cir. 1991), the district court erred in dismissing the suit under section 1915(d). Accordingly, we vacate the district court's order of dismissal and remand the matter to the district court so that it can reinstate the matter and direct the issuance of summons to the defendants. We express no opinion on the merits of Vang's claims.

VACATED and REMANDED