

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10110
Conference Calendar

WILLIAM BRYAN FROUST,

Plaintiff-Appellant,

versus

JACK DIEKEN, Taylor County
Texas, Sheriff, ET AL.,

Defendants,

JACK DIEKEN, Taylor County
Texas, Sheriff,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:93-CV-58-C
- - - - -
(July 20, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

The Court lacks jurisdiction over William Bryan Froust's appeal of the district court's denial of his motion to compel discovery, and the appeal therefrom is DISMISSED. See Periodical Publishers Service Bureau, Inc. v. Keys, 981 F.2d 215, 217 (5th Cir. 1993). The district court's unconditional order denying Froust's motion for appointment of counsel in this civil rights

* Local 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

case is, however, appealable. Robbins v. Maggio, 750 F.2d 405, 413 (5th Cir. 1985).

The denial of appointed counsel was within the discretion of the district court because Froust has not demonstrated the "exceptional circumstances" which warrant the appointment of counsel in a civil rights suit. Ulmer v. Chancellor, 691 F.2d 209, 212 (5th Cir. 1982).

The appeal is without arguable merit and thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5th Cir. R. 42.2. Froust's petition for mandamus relief and motion to supplement the record are DENIED.

Froust is WARNED that future frivolous filings may invite sanctions from the Court.

APPEAL DISMISSED.