

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40533
Conference Calendar

SILVANO SANCHEZ,

Plaintiff-Appellee,

versus

D.W. MCFARLAND, DPS Officer, Et Al.,

Defendants,

D.W. MCFARLAND, DPS Officer,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:92-CV-137

- - - - -
(November 15, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:*

A defendant who is denied summary judgment based on qualified immunity cannot fail to appeal and then restart the appellate timetable by refileing substantially the same motion. Armstrong v. Texas State Bd. of Barber Examiners, 30 F.2d 643, 644 (5th Cir. 1994); Phillips v. Montgomery County, 24 F.3d 736, 738 (5th Cir. 1994).

APPEAL DISMISSED.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.