

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-10108
USDC No. 5:94-CV-237-C

WILLIAM BRYAN FROUST,

Plaintiff-Appellant,

versus

UNIDENTIFIED CRIBBS ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas

July 21, 1995

Before DAVIS, SMITH and EMILIO M. GARZA, Circuit Judges.

BY THE COURT:

Because process had not issued and no defendant had filed an answer, William Bryan Froust had the right to dismiss the instant suit voluntarily without prejudice. FED. R. CIV. P. 41(a). Therefore, Froust's motion to appeal IFP is GRANTED. Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986). The order of dismissal is MODIFIED to reflect that the suit is DISMISSED WITHOUT PREJUDICE and AFFIRMED AS MODIFIED. The appeal is DISMISSED AS MOOT.