

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-31250
Conference Calendar

DAVID M. NICHOLS,

Plaintiff-Appellant,

versus

WAYNE MCELVEEN;
SHERIFF'S DEP'T
CALCASIEU PARISH,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 93-CV-1107
- - - - -

June 27, 1996

Before HIGGINBOTHAM, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

David M. Nichols, #666133, argues that the district court erred in denying his "MOTION FOR A PLEA IN ABATEMENT FOR REVIVAL OF ACTION, VIA - TORT CLAIM AND DIVERSITY OF CITIZENSHIP ACTION (SUMMARY JUDGMENT)."

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

We have reviewed the record, the opinion of the district court, and the brief, and find, substantially for the reasons relied upon by the district court, that Nichols' appeal has no arguable merit. The appeal should be dismissed as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. Rule 42.2.

APPEAL DISMISSED.