

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-11243
(Summary Calendar)

FERNANDO PAUL YNOSTROSA,

Plaintiff-Appellant,

versus

BERNITA E. BURKS,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
(USDC No. 2:94-CV-170)
- - - - -

October 14, 1997

Before WIENER, BARKSDALE and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Fernando Ynostrosa, Texas prisoner # 432319, has appealed the district court's judgment in favor of appellee Bernita E. Burks, after a bench trial of his civil rights action.

Ynostrosa seeks reversal on grounds that the district court erred by denying (1) his motion for appointment of counsel; (2) his untimely motion for a jury trial; and (3) leave to impeach Burks's

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

credibility by evidence that she was quarrelsome. These claims are frivolous.

The court cannot consider Ynostrosa's contention that the magistrate judge erred by denying some of his motions, because Ynostrosa did not appeal these rulings to the district court. See Colburn v. Bunge Towing, Inc., 883 F.2d 372, 379 (5th Cir. 1989).

Because Ynostrosa's appeal is frivolous, his application for preparation of the trial transcript at government expense is DENIED, see Harvey v. Andrist, 754 F.2d 569, 571 (5th Cir. 1985), Cert. denied 471 U.S. 1126 (1985) and his appeal is DISMISSED. See 5th Cir. R. 42.2.

MOTION DENIED; APPEAL DISMISSED.