

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-11432  
Conference Calendar

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JOSEPH EMMANUEL RUSHING,

Plaintiff-Appellant,

versus

KATHRYN A. LEARY ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:96-CV-544-D  
- - - - -

October 21, 1997

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges.

PER CURIAM:\*

Joseph Rushing, Texas prisoner #564281, appeals the dismissal of his 42 U.S.C. § 1983 complaint for failure to satisfy Heck v. Humphrey, 512 U.S. 477 (1994). We have reviewed the record and Rushing's brief challenging the district court's judgment, and we conclude that Rushing's complaint is not cognizable under § 1983. See McGrew v. Texas Bd. of Pardons & Paroles, 47 F.3d 158, 161 (5th Cir. 1995).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Rushing's appeal is without merit and therefore frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2. Rushing is cautioned that future frivolous civil suits and appeals filed by him or on his behalf will invite the imposition of sanctions. Rushing is cautioned further to review any pending suits and appeals to ensure that they do not raise arguments that are frivolous.

Rushing has also filed a "motion for leave to file a supplemental brief" and a "motion to amend a supplemental brief." These motions are DENIED.

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.