

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50519

CHRISTOPHER HUTSON,

Plaintiff-Appellant,

versus

TRAVIS COUNTY, TEXAS;
CITY OF AUSTIN, TEXAS;
MAX J. WESTBROOK; STACY
HOLLEY; JANE DOE #2, Nurse;
ELIZABETH WATSON, Police
Chief; TERRY KEEL, Sheriff,

Defendants-Appellees.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. A-96-CV-572
- - - - -

June 25, 1998

Before JONES, SMITH and STEWART, Circuit Judges.

PER CURIAM:*

Christopher Hutson requests permission to proceed in forma pauperis (IFP) on appeal so that he may appeal from the district court's grant of summary judgment in favor of the appellees. To proceed IFP on appeal, Hutson must demonstrate financial eligibility and a nonfrivolous issue for appeal. Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Hutson argues that material fact issues remain which would preclude summary judgment with respect to his claims under 42 U.S.C. § 1983, the Americans with Disabilities Act, the Rehabilitation Act, and the Texas Tort Claims Act that he had been denied adequate medical care while in the Travis County Central Booking Facility. We have reviewed the record and Hutson's brief and hold that the district court did not err in granting summary judgment.

Hutson has not presented a nonfrivolous issue for appeal. Accordingly, his motion for leave to proceed IFP is DENIED, and the appeal is DISMISSED AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2. The appellees' motion to strike the Clerk's order is DENIED.

MOTIONS DENIED. APPEAL DISMISSED.