

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10644
Conference Calendar

RAYMOND CHARLES EARLY,

Plaintiff-Appellant,

versus

STATE OF TEXAS; JANICE WARDER, District
Court Judge; DALLAS COUNTY SHERIFF'S
DEPARTMENT; JOHN VANCE, District Attorney;
WILLIAM J. FAY, Attorney; DALLAS COUNTY,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:97-CV-2813-T
- - - - -
December 10, 1998

Before DAVIS, DeMOSS and STEWART, Circuit Judges.

PER CURIAM:*

Raymond Charles Early, Texas prisoner # 801583, appeals the district court's dismissal of his 42 U.S.C. § 1983 civil rights action as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (iii). Early argues that the district court erred in dismissing his § 1983 action against Judge Janice Warder; John Vance, the Dallas County District Attorney; and Williams J. Fay, his trial attorney. He argues that due to the defendants' negligence or

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

deliberate indifference, he remained incarcerated for ten days in excess of his 180-day sentence. Early has not identified any error in the district court's dismissal. Early v. State of Texas, No. 3:97-CV-2813-T (N.D. Tex. April 17, 1998). Early's appeal is without arguable merit. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, Early's appeal is DISMISSED. 5th Cir. R. 42.2. Early is advised that the district court's dismissal of his § 1983 action as frivolous and the dismissal of his appeal as frivolous each constitute a "strike" under the "three-strikes" provision of 28 U.S.C. § 1915(g).

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.