

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-50591
Conference Calendar

LEO BROWN,

Plaintiff-Appellant,

versus

GARY L. JOHNSON, Director,
Texas Department of Criminal Justice,
Institutional Division; BRYAN HARTNETT, Warden;
TROY SCAROBOROUGH; TOMMY SWATE, DR.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-98-CV-33
- - - - -

June 16, 1999

Before EMILIO M. GARZA, BENAVIDES, and PARKER, Circuit Judges.

PER CURIAM:*

Leo Brown (TDCJ # 515184) has filed a motion for permission to proceed in forma pauperis (IFP) in the appeal of the district court's order denying his motion to reconsider its dismissal of his complaint for failure to pay the initial partial filing fee as required by the Prison Litigation Reform Act. Brown cannot show that the district court's refusal to vacate its Fed. R. Civ. P. 41(b) dismissal of his complaint was so unwarranted as to constitute an abuse of discretion. See Seven Elves, Inc. v.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Eskenazi, 635 F.2d 396, 402 (5th Cir. 1981). Because Brown's appeal does not present a nonfrivolous issue, his motion to proceed IFP is DENIED and his appeal is DISMISSED. See Baugh v. Taylor, 117 F.3d 197, 202 & n.24 (5th Cir. 1997).

MOTION DENIED; APPEAL DISMISSED.