

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20272
Summary Calendar

FRANK E. VOTH,

Plaintiff-Appellant,

versus

PAM FUGAZZI, ET AL,

Defendants,

CHARLES MARTIN, Warden, Corrections Corporation
of America Houston Processing Center;
GARY WEEBER, Classification and Transfer Manager for
the (ODOC); JOHN KITZHABER, Governor for the State of
Oregon; GEORGE W. BUSH, Governor of the State of Texas,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-96-CV-2598

February 21, 2000

Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

Frank E. Voth, Oregon prisoner # 6100632, appeals the district court's grant of summary judgment in favor of defendants Charles Martin and the Corrections Corporation of America and the district court's dismissal of his claims against defendants Gary Weeber, Oregon Governor John Kitzhaber, and Texas Governor George W. Bush. Particularly, Voth contends that the district court erred in 1)

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

failing to authorize service of process on defendants Weeber, Kitzhaber, and Bush prior to the dismissal of Voth's claims, 2) denying Voth's discovery request, and 3) granting CCA's motion for summary judgment.

We have reviewed the record and the briefs submitted by the parties and find that the district court did not abuse its discretion in *sua sponte* dismissing Voth's claims against Weeber, Kitzhaber, and Bush as frivolous and for failure to state a claim prior to authorizing service of process on them. See 28 U.S.C. § 1915(e)(e)(2)(B)(I) and (ii); Humphries v. Various Federal USINS Employees, 164 F.3d 936, 941 (5th Cir. 1999); Warren v. Black, 134 F.3d 732, 734 (5th Cir. 1998); Siglar v. Hightower, 112 F.3d 191, 193 (5th Cir. 1997); Ali v. Higgs, 892 F.2d 438, 440 (5th Cir. 1990). Similarly, there was no abuse of discretion in denying Voth's discovery request. Richardson v. Henry, 902 F.2d 414, 417 (5th Cir. 1990); International Shortstop, Inc. v. Rally's, Inc., 939 F.2d 1257, 1266 (5th Cir. 1991). Finally, because the record reveals no genuine issue as to any material fact, summary judgment was proper. Hanks v. Transcontinental Gas Pipe Line Corp., 953 F.2d 996, 997 (5th Cir. 1992); Fed. R. Civ. P. 56(c).

Voth's unopposed motion to file his Reply Brief out of time is GRANTED. Because of our disposition of the appeal, the Appellees' requests to strike portions of the Reply Brief are DENIED as unnecessary.

AFFIRMED.