

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-10123
Summary Calendar

DANTE D'AGOSTINO, III,

Plaintiff-Appellant,

versus

R. DREWRY ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:96-CV-377-C

- - - - -
September 21, 1998

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

PER CURIAM:*

Dante D'Agostino, III, Texas prisoner # 688309, has appealed the district court's order for him to pay an initial partial filing fee relative to his civil rights action, pursuant to 28 U.S.C. § 1915. Because this is not an appealable order, the appeal is DISMISSED. See Thompson v. Drewry, 138 F.3d 984, 985-86 (5th Cir. 1998).

IT IS FURTHER ORDERED that D'Agostino's motion to add as appellate issues (1) whether the district court erred by dismissing his claims against the appellees in their official

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

capacities and (2) whether the magistrate judge should have recused himself, is DENIED. See Fed. R. Civ. P. 54(b); United States v. Cooper, 135 F.3d 960, 962-63 (5th Cir. 1998).

MOTION DENIED; APPEAL DISMISSED.