

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-11185  
Summary Calendar

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AUDIE THOMAS MCGEE,

Plaintiff-Appellant,

versus

ARTHUR ENNS,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 7:97-CV-176  
- - - - -

May 27, 1998

Before JONES, SMITH, and STEWART, Circuit Judges.

PER CURIAM:\*

Audie Thomas McGee, Texas prisoner # 508735, appeals from the district court's dismissal without prejudice of his 42 U.S.C. § 1983 action. McGee's complaint was dismissed due to his failure to supply the district court certified copies of his prison trust account in accordance with 28 U.S.C. § 1915(a)(2) and the district court's orders. McGee's brief does not challenge the district court's dismissal of his complaint based upon his failure to file certified copies of his trust account,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

and McGee has thus waived the only issue on appeal. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). Furthermore, the district court's dismissal without prejudice was not error. See 28 U.S.C. § 1915(a)(2); Fed. R. Civ. P. 41(b).

Furthermore, McGee's request for appointment for counsel is DENIED.

The appeal is DISMISSED as frivolous. See 5<sup>TH</sup> CIR. R. 42.2.