

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-11235
Conference Calendar

R. L. HOMER, JR.,

Plaintiff-Appellant,

versus

DAVID EDGEWORTH, M.D., ET AL.,

Defendants,

DAVID EDGEWORTH, M.D.,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:97-CV-58-A
- - - - -

June 16, 1998

Before DAVIS, PARKER, and DENNIS, Circuit Judges.

PER CURIAM:*

R. L. Homer, Jr., Texas inmate # 734936, appeals the summary-judgment dismissal of his civil rights complaint under 42 U.S.C. § 1983. Homer argues that the court erred by failing to give him notice of the potential consequences of the summary-judgment motion and the right to submit opposing affidavits.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The sole notice requirement when a summary-judgment motion has been filed is that the motion be served at least 10 days before the summary judgment hearing is held. Fed. R. Civ. P. 56(c). "[P]articuliarized additional notice of the potential consequences of a summary judgment motion and the right to submit opposing affidavits need not be afforded a pro se litigant." See Martin v. Harrison County Jail, 975 F.2d 192, 193 (5th Cir. 1992). The district court gave Homer all the notice to which he was entitled.

The appeal is without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is dismissed. 5th Cir. R. 42.2.

APPEAL DISMISSED.