

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-20652

DAVID A. MARTIN,

Plaintiff-Appellant/
Cross-Appellee,

versus

LEE COLLEGE; TOM SANDERS;
PAMELA PAYNE; JACKSON SASSER;
and DENNIS R. TOPPER,

Defendants-Appellees/
Cross-Appellants

Appeals from the United States District Court
for the Southern District of Texas
(H-96-3986)

June 9, 1998

Before GARWOOD, JONES and WIENER, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant David A. Martin appeals from the district court's summary judgment dismissing his claims and from that court's denial of his motion to remand the case to the state court

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

from which it had been removed. Defendants-Appellees cross appeal the district court's dismissal of their counter claim for attorneys' fees and costs.

We have reviewed the summary judgment record and considered the facts and the arguments of counsel as set forth in their respective briefs, and conclude not only that summary judgment was providently granted but that Martin's appeal is so lacking in merit as to approach frivolousness. We therefore affirm the district court's dismissal of Martin's claims and assess costs of this appeal to him. Regarding the district court's refusal to grant attorneys' fees and costs to the Defendants, our standard of review is abuse of discretion and is thus so deferential as to mandate our affirmance of the district court's ruling on this issue.

AFFIRMED at Appellant's cost.