

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10102
Summary Calendar

DONNIE G. RUBELL,

Plaintiff-Appellant,

versus

EDWARD BLANK ASSOCIATES OF
AT&T; LIBERTY MUTUAL INSURANCE
COMPANY; TEXAS WORKERS
COMPENSATION COMMISSION,

Defendants-Appellees.

Appeal from the United States District Court for the
Northern District of Texas
USDC No. 4:97-CV-1035-A

August 3, 1998

Before JOLLY, BENAVIDES, and PARKER, Circuit Judges.

PER CURIAM:*

After studying the briefs and reviewing the record, we conclude that the district court correctly determined that the appellant's action is frivolous. The appellant was required to file his Title VII claim within ninety days after the EEOC issued its Notice of Right to Sue Letter. He did not, however, file the claim until nearly twenty months after the limitations period had

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

run. The claim is therefore time barred. As for the appellant's section 1983 claims, he cannot establish any state action and, thus, have no merit. The district court's dismissal of the action is accordingly AFFIRMED.

Furthermore, because this appeal was utterly frivolous, and the appellant has been cited by the district court as having filed frivolous lawsuits at least three times in the recent past, it is ORDERED that the appellant show cause within ten days time why reasonable attorney's fees and double costs should not be awarded to the appellees as damages pursuant to Fed. R. App. P. 38.

The judgment of the district court is

A F F I R M E D.