

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-50296
Conference Calendar

R.C. CRAWFORD, III; CRAWFORD HEAVY & MARINE CONSTRUCTION, LTD.,
Plaintiffs-Appellants,

versus

TEXAS DEPARTMENT OF TRANSPORTATION ET AL.,
Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-97-CV-740
- - - - -

February 10, 1999

Before BARKSDALE and EMILIO M. GARZA, Circuit Judges.*

PER CURIAM:**

R. C. Crawford, III, appeals from the dismissal of his lawsuit filed under 42 U.S.C. § 1983, which was dismissed without prejudice by the district court for failure to prosecute. Crawford is not a lawyer and may not represent Crawford Heavy and Marine Construction Limited in court. Crawford Heavy and Marine Construction Limited is therefore not properly before this court.

*This matter is being decided by a quorum. 28 U.S.C. § 46(d).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

See Southwest Express Co. v. Interstate Commerce Comm'n, 670 F.2d 53, 55-56 (5th Cir. 1982).

Crawford failed to challenge the district court's dismissal for failure to prosecute, and has therefore waived this issue. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993).

Crawford argues that the district court abused its discretion by failing to appoint counsel for him. He contends that a Texas law passed on May 11, 1846, requires Texas courts to appoint free legal counsel to an indigent party in a civil or criminal case. The federal district court had discretion under 28 U.S.C. § 1915(e)(1) to appoint counsel for Crawford. See Branch v. Cole, 686 F.2d 264, 266 (5th Cir. 1982). A district court will generally appoint counsel only in an exceptional case. Ulmer v. Chancellor, 691 F.2d 209, 213 (5th Cir. 1982). Close examination of the record and pleadings indicates that the district court did not abuse its discretion by failing to appoint counsel for Crawford.

AFFIRMED.