

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

August 17, 2009

Charles R. Fulbruge III
Clerk

No. 09-60200
Summary Calendar

KEVIN TERRENCE DAVIS,

Plaintiff-Appellant

v.

CHRISTOPHER EPPS, Mississippi Department of Corrections Commissioner; EL SPARKMAN, Mississippi Department of Corrections Deputy Commissioner; LAWRENCE KELLY, Mississippi Department of Corrections Superintendent of Parchman; TIMOTHY MORRIS, Mississippi Department of Corrections Warden of Unit 32; UNKNOWN RANDLE, Floor Officer at Unit 32, E Building; UNKNOWN SIMMONS, Floor Officer, Unit 32, E Building; UNKNOWN MOORE, Watch Commander, Unit 32; DOCTOR UNKNOWN TRINCA, Physician at Unit 42 Hospital; UNKNOWN SANTOS, Physician at Unit 32 Clinic, Unit 42 Hospital; UNKNOWN WILLOUGHBY, Nurse at Unit 32 Clinic, Unit 42 Hospital; DOLESTER FOSTER, Over Unit 32 Case Managers and Classification; UNKNOWN NOEL, Warden over Unit 32, E Building; KINTRELL LINDELL, Medical Director of Parchman; DOCTOR THOMAS LEHMAN,

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:08-CV-85

Before BENAVIDES, PRADO and ELROD, Circuit Judges.

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Kevin Terrence Davis, Mississippi prisoner # R8777, seeks leave to proceed in forma pauperis (IFP) in his appeal from the district court's February 17, 2009, judgment dismissing some, but not all, of the defendants named in his 42 U.S.C. § 1983 suit. When an action involves multiple parties, a decision that adjudicates the liability of fewer than all the parties does not terminate the action unless the district court expressly determines that there is not a just reason for delay and expressly directs entry of a final judgment. FED. R. CIV. P. 54(b). A district court satisfies the requirements for entering an order of final judgment under Rule 54(b) "[i]f the language in the order appealed from, either independently or together with related portions of the record referred to in the order, reflects the district court's unmistakable intent to enter a partial final judgment under Rule 54(b)" *See Kelly v. Lee's Old Fashioned Hamburgers, Inc.*, 908 F.2d 1218, 1220 (5th Cir. 1990) (en banc).

The February 17, 2009, judgment does not indicate that the district court intended for it to be a partial final judgment under Rule 54(b). *See id.* Accordingly, this court is without jurisdiction, and the appeal is dismissed. Davis's motion to proceed IFP on appeal is denied.

APPEAL DISMISSED; MOTION DENIED.