

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

United States Court of Appeals  
Fifth Circuit

**FILED**

June 18, 2010

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 09-10607

Summary Calendar  
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BENJAMIN C. LEWIS, also known as Benjamin Craig Lewis,

Plaintiff-Appellant

v.

DALLAS COUNTY JAIL; DR. ROMONA LEACH, P.A.; PARKLAND JAIL  
HEALTH; DALLAS COUNTY, TEXAS; PARKLAND HEALTH AND HOSPITAL  
SYSTEMS,

Defendants-Appellees

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:08-CV-1855  
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Before JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:\*

The district court dismissed as frivolous the 42 U.S.C. § 1983 lawsuit filed by Benjamin C. Lewis seeking compensation for allegedly inadequate medical care while he was a pretrial detainee at the Dallas County Jail. The district court's dismissal was based in part upon its determination that several of Lewis's claims were precluded by the dismissal as frivolous of his previous

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 1983 lawsuit in *Lewis v. Keliher*, No. 3:08-CV-0775-D, 2008 WL 3166804, at \*1 (N.D. Tex. July 28, 2008). The district court certified that Lewis's appeal was not taken in good faith and therefore denied his motion for leave to proceed in forma pauperis (IFP) on appeal. We are now presented with Lewis's request to proceed IFP on appeal and challenge to the district court's certification decision. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1992). Lewis also seeks appointment of counsel on appeal.

Lewis argues that (1) the magistrate judge fraudulently replaced his actual statement of the case with the statement from his prior § 1983 lawsuit in order to justify the dismissal of his instant claims, (2) Dr. Leach and Dallas County were not defendants in his prior § 1983 lawsuit, and (3) the district court erroneously determined that he failed to establish that Dr. Leach and Parkland Jail Health were deliberately indifferent to his medical needs. Because Lewis has not shown that he will present any nonfrivolous issue on appeal, his motions for leave to proceed IFP and for appointment of counsel are denied, and this appeal is dismissed as frivolous. *See Baugh*, 117 F.3d at 202 n.24; *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2.

MOTIONS DENIED; APPEAL DISMISSED.