

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 20, 2020

Lyle W. Cayce
Clerk

No. 19-10806
Summary Calendar

BENJAMIN R. STEWART,

Plaintiff—Appellant,

versus

NFN PENNIE, *Senior Warden*, NEAL UNIT; BOBBY LUMPKIN,
Director, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION; BRYAN COLLIER,
Texas Department of Criminal Justice Director; TEXAS DEPARTMENT OF
CRIMINAL JUSTICE; GREGG ABBOTT,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:19-CV-423

Before DAVIS, STEWART, and DENNIS, *Circuit Judges*.

PER CURIAM:*

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 19-10806

Benjamin R. Stewart, Texas prisoner # 1970445, appeals the dismissal without prejudice of his 42 U.S.C. § 1983 complaint pursuant to Federal Rule of Civil Procedure 41(b). We review that dismissal for abuse of discretion. *McNeal v. Papasan*, 842 F.2d 787, 789-90 (5th Cir. 1988). Additionally, Stewart has filed numerous motions, including a motion to appoint counsel, a motion to amend the case caption, a “motion to give the court authority” to address his claims of abuses in the prison and to conduct an investigation of prison conditions, two motions for a temporary restraining orders, a motion “to involve the FBI,” and a motion to suspend the ruling on the case to allow Stewart to obtain counsel upon his release and to allow filing of his “first addendum for damages.”

On appeal, Stewart fails to address the district court’s application of Rule 41(b). This court reviews pro se briefs with the benefit of liberal construction, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), but even pro se litigants must brief their arguments in order to preserve them, *see Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993); *Brinkmann v. Dallas Cty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Because Stewart has abandoned any argument that the dismissal of his complaint was an abuse of discretion by failing to brief it, we affirm the judgment of the district court. *See Yohey*, 985 F.2d at 224-25; *Brinkmann*, 813 F.2d at 748. Furthermore, Stewart’s motion for appointment of counsel on appeal is denied because he has not shown that this case presents exceptional circumstances. *See Naranjo v. Thompson*, 809 F.3d 793, 799 (5th Cir. 2015). His remaining motions are denied as moot.

AFFIRMED; MOTIONS DENIED.