

August 28, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-40837
Conference Calendar

RONALD LEE ALEXANDER,

Plaintiff-Appellant,

versus

TRACY P. ALLEN, Classification Officer; CLARENCE MOSLEY,
Warden,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:04-CV-8

Before DAVIS, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

Ronald Lee Alexander, Texas prisoner # 830441, appeals from the district court's denial of his motion to reopen his 42 U.S.C. § 1983 lawsuit, which the district court had dismissed in part for failure to exhaust available administrative remedies, as frivolous and for failure to state a claim upon which relief could be granted. This court reviews the denial of Alexander's motion to reopen, construed as a motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

for an abuse of discretion. Seven Elves, Inc. v. Eskenazi, 635 F.2d 396, 402 (5th Cir. 1981).

Although pro se pleadings are afforded liberal construction, Haines v. Kerner, 404 U.S. 519, 520 (1972), even pro se litigants must adequately brief arguments in order to properly present them for consideration. Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993); FED. R. APP. P. 28(a)(9). Alexander has failed to adequately brief his challenge to the denial of his Rule 60(b) motion. Moreover, his arguments regarding the underlying issues of his § 1983 lawsuit lack merit.

As the instant appeal lacks arguable merit, it is dismissed as frivolous. See 5TH CIR. R. 42.2; Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). The dismissal of Alexander's § 1983 lawsuit and this appeal each count as a strike under 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). We caution Alexander that, if he accumulates a total of three strikes, he may no longer proceed in forma pauperis in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See § 1915(g).

APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.