

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

United States Court of Appeals
Fifth Circuit

FILED

August 11, 2011

Lyle W. Cayce
Clerk

No. 11-30098
Summary Calendar

DAVID JACOBSON,

Plaintiff-Appellant

v.

JAMES M. LEBLANC, SECRETARY, DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS; LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS, Municipal Entity; HOWARD PRINCE; ROBERT HENDERSON; LATERDA DRUMMON,

Defendants-Appellees

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:10-CV-251

Before KING, JOLLY, and GRAVES, Circuit Judges.

PER CURIAM:*

David Jacobson, Louisiana prisoner # 558909, moves this court to proceed in forma pauperis (IFP) in this appeal from the district court's dismissal of his 42 U.S.C. § 1983 complaint as frivolous. The district court denied his request to proceed IFP on appeal certifying that the appeal was not taken in good faith. Jacobson's IFP motion in this court is a challenge to the district court's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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certification that his appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1992).

The dismissal of an IFP complaint as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i) is reviewed for an abuse of discretion. *Geiger v. Jowers*, 404 F.3d 371, 373 (5th Cir. 2005). Because Jacobson has not shown that he will present any nonfrivolous issue on appeal, his motion for leave to proceed IFP is 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.

The district court's dismissal of Jacobson's § 1983 complaint for failure to state a claim and our dismissal of this appeal as frivolous both count as strikes for purposes of 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Jacobson is cautioned that if he accumulates three strikes under § 1915(g), he will not be able to proceed IFP 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).

IFP MOTION DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.