

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-10605
Conference Calendar

CRAIG GILBERT, individually and on behalf of
Skyler B. Gilbert,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA; STATE OF KANSAS; GOVERNOR
GRAVES; FORD COUNTY, KANSAS; SALINE COUNTY, KANSAS;
ELLSWORTH COUNTY, KANSAS; DODGE CITY, FORD COUNTY
OFFICIALS, John Does's 1-10; LEIGH HOOD, Ford County District
Attorney; JANE DOES 1-5; ELLSWORTH COUNTY SHERIFF;
ELLSWORTH COUNTY DISTRICT ATTORNEY; ELLSWORTH COUNTY
JUSTICE OF THE PEACE; ELLSWORTH COUNTY DEPUTY SHERIFFS,
and Jailors; JUSTICE OF THE PEACE, Saline County, Kansas;
DISTRICT COURT, Trial Judge; DISTRICT COURT, District
Attorney in Saline County,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:00-CV-165-G

October 18, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Craig Gilbert, in detention on criminal charges in Kansas,
moves for leave to appeal in forma pauperis (IFP). "To proceed
on appeal [IFP], a litigant must be economically eligible, and
his

* 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that this opinion should not be published and is not precedent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.

appeal must not be frivolous." Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986).

We detect no abuse of discretion by the district court in dismissing as legally frivolous Gilbert's petition for change of venue. See Berry v. Brady, 192 F.3d 504, 507 (5th Cir. 1999). Leave to appeal IFP is DENIED. This appeal is frivolous and therefore is DISMISSED. See 5TH CIR. R. 42.2.

The dismissal of this appeal and the dismissal as frivolous by the district court each count as a strike for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). We caution Gilbert that once he accumulates three strikes, he may not 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 DENIED. APPEAL DISMISSED. TWO-STRIKE WARNING ISSUED.