

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-30971
Conference Calendar

DAVID WATERS,

Plaintiff-Appellant,

versus

FRED Y. CLARK, Chairman of the Board of Parole,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 00-CV-302

February 13, 2001

Before SMITH, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

David Waters, Louisiana prisoner No. 83255, appeals the dismissal as frivolous of his civil rights complaint challenging the Louisiana Board of Parole's determination that he is ineligible for parole consideration because his life sentence has not been commuted to a term of years as required by LA. REV. STAT. ANN. § 15:574.4(B). Waters' appellate brief fails to present any argument for review by this court. Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993); see FED. R. APP. P. 28(a)(9).

Furthermore, based on our review of the record, we agree with the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

district court's characterization of Waters' complaint as frivolous. The appeal, which is frivolous, is DISMISSED. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

The district court's dismissal of Waters' complaint and this court's dismissal of his appeal count as two "strikes" for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). Waters is cautioned that if he accumulates three "strikes" under § 1915(g), he will not be able to 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; SANCTIONS WARNING ISSUED.