

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-41176
Summary Calendar

ERNEST D. NEWMAN,

Plaintiff-Appellant,

versus

LARRY A. JOHNS, Warden, Michael Unit; MICHAEL L. STARKEY,
Assistant Warden, Michael Unit; ROBERT D. HERRERA, Michael
Unit,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:00-CV-288

May 10, 2001

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Ernest D. Newman, Texas prisoner # 560787, appeals the district court's dismissal without prejudice of his 42 U.S.C. § 1983 complaint for failure to prosecute or to obey a court order. Newman has failed to brief the relevant issue, as he has provided neither argument nor authorities to show that the district court erred in dismissing his suit. See Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993); Fed. R. App. P.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

28(a)(9). Accordingly, this appeal is dismissed as frivolous.
5th Cir. R. 42.2.

This dismissal of a frivolous appeal constitutes one strike against Newman for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). Newman has already accumulated one other strike in this court. See Newman v. Brock, No. 00-40959 (5th Cir. Feb. 14, 2001). Once Newman accumulates three strikes, he will no longer be allowed 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 28 U.S.C. § 1915(g).

APPEAL DISMISSED AS FRIVOLOUS. 5th Cir. R. 42.2. SANCTIONS
WARNING ISSUED.