

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50397
Conference Calendar

GREGORY ANTHONY PERKINS,

Plaintiff-Appellant,

versus

TOMMY ALLEN,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-98-CV-735-NSN

February 14, 2001

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

PER CURIAM:*

Gregory Anthony Perkins, Texas prisoner # 725731, has filed a motion for leave to proceed in forma pauperis (IFP) on appeal from the magistrate judge's dismissal of his 42 U.S.C. § 1983 civil rights complaint following a jury verdict in favor of the defendant. By filing a motion for leave to proceed IFP on appeal in this court, Perkins is challenging the magistrate judge's certification, pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a), that IFP should not be granted because any

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 would not be taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Perkins has not demonstrated that he will raise a nonfrivolous issue on appeal. See 28 U.S.C. § 1915(a). Perkins's request for IFP status is DENIED, and his appeal is DISMISSED as frivolous. See Baugh, 117 F.3d at 202 & n.24; 5th Cir. R. 42.2.

The dismissal of this appeal as frivolous counts as a "strike" for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). Perkins is CAUTIONED that if he accumulates three "strikes" under 28 U.S.C. § 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 28 U.S.C. § 1915(g).

MOTION DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.