

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-10279
Conference Calendar

JERRY RICKY HANNAH,

Plaintiff-Appellant,

versus

NFN MARTIN, Officer, Price Daniel Unit;
NFN HOOSER, Officer, Price Daniel Unit;
TEXAS DEPARTMENT OF CRIMINAL JUSTICE-
INSTITUTIONAL DIVISION, Price Daniel Unit,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:01-CV-22-C

June 14, 2001

Before WIENER, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Jerry Ricky Hannah, Texas prisoner number 897277, appeals the district court's dismissal of his 42 U.S.C. § 1983 suit as frivolous. He contends that the defendants lost his tennis shoes and that his due process rights were violated when he was not given fair compensation for the shoes. The district court did not abuse its discretion in concluding that Hannah's claim for the deprivation of his personal property was frivolous. See

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Hudson v. Palmer, 468 U.S. 517, 533 (1984); Harper v. Showers, 174 F.3d 716, 718 & n.3 (5th Cir. 1999). Texas has an adequate postdeprivation remedy for confiscation of prisoner property. Cathey v. Guenther, 47 F.3d 162, 164 (5th Cir. 1995). Hannah's appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it 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). Hannah therefore has two "strikes" under 28 U.S.C. § 1915(g). We caution Hannah that once he accumulates three strikes, he may not 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; SANCTIONS WARNING ISSUED.