

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 02-10442
Summary Calendar

JIMMIE L. DIXON,

Plaintiff-Appellant,

versus

PHYSICIANS ASSISTANT; JOHN M. TOMBONE,
Warden of Federal Detention Center;
UNITED STATES OF AMERICA,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:01-CV-1947-D

August 29, 2002

Before JONES, STEWART, and DENNIS, Circuit Judges:

PER CURIAM:*

Jimmie L. Dixon, federal prisoner No. 29531-077, appeals the district court's determination that a complaint raising claims under the Federal Tort Claims Act and Bivens v. Six Unknown Named Agents** is time-barred. The district court dismissed the untimely complaint as frivolous, citing both

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

** 403 U.S. 388 (1971).

28 U.S.C. § 1915(e)(2) and 28 U.S.C. § 1915A. We find no error in the district court's determination.

Dixon's appeal is thus 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). Dixon, therefore, has two "strikes" under 28 U.S.C. § 1915(g). We caution Dixon 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.