

December 9, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-40955  
Conference Calendar

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JUAN F. NAVARRO,

Plaintiff-Appellant,

versus

LISA GREEN, Corrections Officer IV  
Coffield Unit; M. ARNOLD, Captain,  
Coffield Unit; L. COOK, Captain, Coffield  
Unit; E. A. BURSE, Major, Coffield Unit,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:03-CV-173  
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Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:\*

Juan F. Navarro, Texas prisoner #602579, appeals the dismissal as frivolous of his civil rights complaint pursuant to 28 U.S.C. § 1915A(b)(1). He argues that the district court erred in not allowing him to amend his complaint before it was dismissed and that the district court's reliance on Edwards v.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Balisok, 520 U.S. 641 (1997), was error because he was not challenging the loss of good-time credits.

Title 28 U.S.C. § 1915A instructs the district court to review prisoner complaints, before docketing if feasible, or in any event, as soon as practicable, and to dismiss them if they are "frivolous, malicious, or fail[] to state a claim upon which relief may be granted." 28 U.S.C. § 1915A(b)(1). This court reviews 28 U.S.C. § 1915A dismissals as frivolous for an abuse of discretion. See Martin v. Scott, 156 F.3d 578, 580 (5th Cir. 1998).

The district court did not abuse its discretion in dismissing Navarro's complaint as his placement in administrative segregation did not implicate due process concerns and his complaint did not raise cognizable claims of equal protection or retaliation. See Sandin v. Conner, 515 U.S. 472, 474, 485 (1995); Muhammad v. Lynaugh, 966 F.2d 901, 903 (5th Cir. 1992); Grant v. Cuellar, 59 F.3d 523, 524-25 (5th Cir. 1995); Johnson v. Rodriguez, 110 F.3d 299, 310 (5th Cir. 1997).

Navarro'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 as frivolous and the district court's dismissal of this lawsuit as frivolous constitute two strikes for purposes of the 28 U.S.C. § 1915(g) bar. Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). We

caution Navarro that once he accumulates three strikes, he may not 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).

DISMISSED AS FRIVOLOUS; WARNING ISSUED.