

July 22, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-30286
Summary Calendar

RICKY SEABERRY,

Plaintiff-Appellant,

versus

RICHARD STALDER; VENETIA MICHAEL;
ROBERT DUNN; ORLANDO BEENE,

Defendants-Appellees.

Appeals from the United States District Court
for the Western District of Louisiana
USDC No. 5:04-CV-1875

Before JOLLY, DAVIS, and OWEN, Circuit Judges.

PER CURIAM:*

Ricky Seaberry, Louisiana prisoner # 131369, moves for leave to proceed in forma pauperis ("IFP") on appeal following the district court's denial of IFP and order that he pay the filing fee because he is barred by the three strikes provision of 28 U.S.C. § 1915(g). Seaberry alleges that he faces an imminent threat of serious physical injury because a fellow inmate assaulted him as a result of a prison policy of double-bunking inmates who are on DD/extended lock-down.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Seaberry fails to meet the showing required to avoid application of the three strikes bar under 28 U.S.C. § 1915(g). See Banos v. O'Guin, 144 F.3d 883, 884-85 (5th Cir. 1998). His motion to proceed IFP is DENIED. Because the district court properly applied 28 U.S.C. § 1915(g), Seaberry's appeal is without merit and is DISMISSED. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

IFP MOTION DENIED; APPEAL DISMISSED.