

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

February 28, 2008

Charles R. Fulbruge III  
Clerk

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No. 07-50978  
Summary Calendar

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CLEMENT DAVIS JONES

Plaintiff-Appellant

v.

STATE OF TEXAS; SUSAN REED, Chief District Attorney, Bexar County;  
SHERIFF RALPH LOPEZ of Bexar County; MICHAEL VALICEK, Attorney;  
SAMANTHA DIMAIO, Assistant District Attorney, Bexar County; SERGEANT  
G D KUSCHEL, Officer, Houston Police Department

Defendants-Appellees

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:07-CV-539

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Before SMITH, BARKSDALE, and ELROD, Circuit Judges.

PER CURIAM:\*

Clement Davis Jones, Texas prisoner # 29054, seeks permission to proceed in forma pauperis (IFP) to appeal the dismissal of his 42 U.S.C. § 1983 complaint based on his failure to state a claim and on the defendants' immunity. In filing the IFP motion, Jones is challenging the district court's certification decision

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that his appeal was not taken in good faith. See *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

There is no merit to Jones's argument that District Attorney Susan Reed and Assistant District Attorney Samantha Dimaio forfeited their immunity because they acted maliciously, intentionally, and in retaliation for his sex-offender status. *Imbler v. Pachtman*, 424 U.S. 409, 431 (1976). Because Jones does not address the district court's reasons for dismissing his claims against Sheriff Ralph Lopez, Michael Valicek, and Sergeant G. D. Kuschel, he has abandoned any challenge to the dismissal of those defendants. *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

Jones's appeal has no arguable merit, is frivolous, and is dismissed. 5th Cir. R. 42.2; see *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). The dismissal by the district court of Jones's complaint and the dismissal of this appeal as frivolous each count as a strike under 28 U.S.C. § 1915(g). *Adepegba v. Hammons*, 103 F.3d 383, 385-87 (5th Cir. 1996). Jones is cautioned that if he accumulates three strikes under § 1915(g), he will not be allowed 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. § 1915(g).

Jones's motion for appointment of counsel is denied.

MOTIONS DENIED; APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.