

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40777
Conference Calendar

RONALD DAVID SUTHERLAND,

Plaintiff-Appellant,

versus

JAMES A. COLLINS, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION, WARDEN WILSON;
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-94-CV-488

August 26, 1999

Before KING, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Ronald David Sutherland, federal prisoner # 24921-077, is BARRED from proceeding *in forma pauperis* (IFP) under the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(g), because, on at least three prior occasions while incarcerated, Sutherland has brought an action or appeal in a court of the United States that was dismissed as frivolous or for failure to state a claim upon which relief could be granted. See *Sutherland v. Zeller*, No.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

95-40314 (5th Cir. 1995); *Price v. Texas Dep't of Criminal Justice*, No. H-94-4412 (S.D. Tex. Sept. 17, 1996); *Sutherland v. Unidentified Larson*, No. 96-40132 (5th Cir. Oct. 23, 1996); see *Adepegba v. Hammons*, 103 F.3d 383, 387 (5th Cir. 1996) (affirmance of a district court's dismissal as frivolous counts as a "strike"; dismissal counts as "strike" once appeal has been waived).

Accordingly, Sutherland's IFP status is DECERTIFIED, and he may not proceed IFP in any civil action or appeal filed while he is in prison unless he is under imminent danger of serious physical injury. See § 1915(g). The appeal is DISMISSED.

Sutherland has 15 days from the date of this opinion to pay the full appellate filing fee of \$105 to the clerk of the district court, should he wish to reinstate his appeal.

IFP DECERTIFIED; APPEAL DISMISSED; 28 U.S.C. § 1915(g) BAR ORDERED.