

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-20372
Conference Calendar

DONALD GARY EWING,

Plaintiff-Appellant,

versus

GARY L. JOHNSON, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION;
K. NYAK, Doctor, WAYNE SCOTT, DIRECTOR
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-96-CV-3292
- - - - -
December 10, 1998

Before DAVIS, DeMOSS and STEWART, Circuit Judges.

PER CURIAM:*

Donald Gary Ewing, Texas prisoner # 623695, has filed an application for leave to proceed in forma pauperis (IFP) on appeal, following the district court's dismissal of his 42 U.S.C. § 1983 complaint. By moving for IFP, Ewing is challenging the district court's certification that IFP should not be granted on

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appeal because his appeal presents no nonfrivolous issues. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Because Ewing's "brief" does not address the reasons for the district court's certification decision or the basis of the district court's dismissal, it is the same as if the appellant had not appealed the judgment. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Accordingly, we uphold the district court's order certifying that the appeal presents no nonfrivolous issues. Ewing's request for IFP status is DENIED, and his appeal is DISMISSED as frivolous. See Baugh, 117 F.3d at 202 n.24; 5th Cir. R. 42.2.

We caution Ewing that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Ewing is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

IFP DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.