

FILED

June 23, 2004

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 04-20070
Conference Calendar

CLINTON W. DELESPINE,

Plaintiff-Appellant,

versus

A. M. STRINGFELLOW; DOUG DRETKE, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-03-CV-1424

Before BARKSDALE, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Clinton W. Delespine, Texas inmate #187450, requests leave to proceed in forma pauperis (IFP) on appeal. Delespine has not complied with 28 U.S.C. § 1915. He has not filed the prison trust fund account statement, as required for the district court to make a financial assessment for this appeal. See 28 U.S.C. § 1915(a)(1), (2); Hatchet v. Nettles, 201 F.3d 651, 652 (5th Cir. 2000). Additionally, Delespine cannot show that he will

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

present a nonfrivolous issue on appeal. See Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982). Accordingly, Delespine's motion for IFP is DENIED, and the appeal is DISMISSED as frivolous. 5TH CIR. R. 42.2.

The dismissal of this appeal as frivolous counts as a strike for purposes of 28 U.S.C. § 1915(g). Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). We warn Delespine 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).

IFP DENIED; APPEAL DISMISSED AS FRIVOLOUS; STRIKE WARNING ISSUED.