

October 24, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-40044
Conference Calendar

VERLIE LEE HENDERSON,

Plaintiff-Appellant,

versus

DOUG DRETKE, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION; RISSIE OWENS, Chairwoman,
Texas Board of Pardons and Paroles; DAN JONES, Special Review
Unit, Texas Board of Pardons and Paroles,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:05-CV-383

Before JOLLY, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

Verlie Lee Henderson, Texas prisoner # 199786, appeals the dismissal of his civil rights complaint pursuant to 28 U.S.C. § 1915A. In that complaint, Henderson challenged the constitutionality of Texas' parole procedures. Henderson's brief, however, does not address the district court's determinations that (1) Fifth Circuit precedent deemed his ex post facto claim frivolous and (2) his due process challenge was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

not cognizable in a 42 U.S.C. § 1983 proceeding. These issues are therefore waived. See Brinkman v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Henderson's appeal is frivolous and is therefore dismissed. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2. We remind Henderson that, after the docketing of the instant appeal, we imposed the 28 U.S.C. § 1915(g) bar in Henderson v. Enns, No. 05-40279 (5th Cir. Apr. 27, 2006) (unpublished). Consequently, Henderson is barred from proceeding in forma pauperis 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).

APPEAL DISMISSED.