

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-11183
Summary Calendar

RAFAEL MESA QUINTANA,

Plaintiff-Appellant,

versus

JOHN DOE, Driver of Vehicle;
DALE STORY, Director of
Transportation,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 7:00-CV-179-R
- - - - -

August 23, 2001

Before DAVIS, BENAVIDES and STEWART, Circuit Judges.

PER CURIAM:*

Rafael Mesa Quintana, Texas prisoner # 482124, appeals the district court's denial of his motion to proceed in forma pauperis (IFP) on appeal following the dismissal of his 28 U.S.C. § 1983 action for failure to state a claim. By moving for IFP status, Quintana is challenging the district court's certification that IFP status should not be granted on appeal because his appeal is frivolous and is not taken in good faith. See *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Quintana has failed to show that the claims that were dismissed present nonfrivolous issues for appeal. Accordingly, the district court's order certifying that the appeal is frivolous is upheld. Quintana's request for IFP status is DENIED, and his appeal is DISMISSED as frivolous. See id. at 117 F.3d at 202 & n.24; 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), as does the district court's dismissal. See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). Quintana is warned that if he accumulates one more "strike" pursuant to 28 U.S.C. § 1915(g), he may not be able 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. See 28 U.S.C. § 1915(g).

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