

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-30293
Conference Calendar

RENWICK GIBBS,

Plaintiff-Appellant,

versus

M. J. FOSTER, Governor, State
of Louisiana; GRAY DAVIS; LINDA
FULLERTON; MICHAEL COLEMAN; GARY T.
YANCEY,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 99-CV-1780

August 22, 2000

Before KING, Chief Judge, and POLITZ and WIENER, Circuit Judges.

PER CURIAM:*

Renwick Gibbs, a California prisoner (#P58227), appeals the district court's dismissal of his civil rights complaint as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i). His motion for appointment of counsel is DENIED. See Ulmer v. Chancellor, 691 F.2d 209, 212 (5th Cir. 1982).

Gibbs argues only that the defendants illegally extradited him from Louisiana to California and that he is serving an

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

illegal sentence for robbery in California. Gibbs has not shown that the district court erred in holding that his complaint was defective because it did not meet the preconditions for suit established by Heck v. Humphrey, 512 U.S. 477, 486-87 (1994).

This appeal is without arguable merit and, thus, frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5th Cir. R. 42.2.

This dismissal of a frivolous appeal and the district court's dismissal of the lawsuit as frivolous constitute two "strikes" against Gibbs for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). Gibbs is CAUTIONED that if he accumulates three "strikes" under § 1915(g), he will not be able to proceed *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. See § 1915(g).

ALL OUTSTANDING MOTIONS DENIED; APPEAL DISMISSED AS FRIVOLOUS; SANCTIONS WARNING ISSUED.