

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50585
Conference Calendar

RAYMOND C. SURGERS,

Plaintiff-Appellant,

versus

HASSEL R. TERRY; ALTON DALE CASKEY; MELVIN WRIGHT,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. W-99-CV-124

October 18, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Raymond C. Surgers, Texas prisoner # 301481, appeals the district court's denial of his motion to proceed in forma pauperis (IFP) on appeal following the dismissal of his civil rights complaint pursuant to a grant of summary judgment in favor of the defendants. By moving for IFP status in this court, Surgers is challenging the district court's certification that his appeal is frivolous and is not taken in good faith. See

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997); 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a). Surgers argues that the district court failed to give its reasons for denying his motion for leave to proceed IFP on appeal.

Contrary to Surgers's allegation, the district court sufficiently stated its reasons for denying Surgers IFP status. Surgers has not made a meritorious challenge to the district court's denial of IFP and has not shown that he will raise a nonfrivolous issue on appeal. Surgers'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.

The dismissal of this appeal as frivolous counts as a "strike" for purposes of § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). Surgers is WARNED that if he accumulates three "strikes" pursuant to § 1915(g), he may not proceed IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is in imminent danger of serious physical injury. See § 1915(g).

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