

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-11200
Conference Calendar

RODOLFO RODRIGUEZ,

Plaintiff-Appellant,

versus

SAM PRATT, Warden; P. CHILDS, Jail Administrator, Federal Detention Center, Seagoville; NFN ANDERSON, Unit Manager, FCI, Seagoville; D. CROWE, Unit Five Case Manager, FCI, Seagoville; NFN PRICE, Unit Five Counselor, FCI, Seagoville; NFN FARLEY, Special Investigation Services Agent, FCI, Seagoville; WILLIAM MOBLEY, Disciplinary Hearing Administrator, BOP, South Central Regional Office, Dallas, TX,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:01-CV-210-L

April 11, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Rodolfo Rodriguez, former federal prisoner # 47735-079, appeals the district court's dismissal with prejudice of his civil rights complaint as frivolous and for seeking monetary relief from defendants who are immune from such relief pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i) and (iii).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Rodriguez has failed to brief the relevant issue, as he has provided neither argument nor authorities to show that the district court erred in dismissing his suit. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). Accordingly, this appeal is dismissed as frivolous. 5TH CIR. R. 42.2.

The three-strikes provision of 28 U.S.C. § 1915(g) "prohibits a prisoner from proceeding in forma pauperis ("IFP") if he has had three actions or appeals dismissed for frivolousness, maliciousness, or failure to state a claim." Carson v. Johnson, 112 F.3d 818, 819 (5th Cir. 1997)(citing Adepegba v. Hammons, 103 F.3d 383, 385 (5th Cir. 1996)). The district court's dismissal of Rodriguez' complaint as frivolous and this court's dismissal of his appeal as frivolous both count as "strikes" for purposes of 28 U.S.C. § 1915(g). See Adepegba, 103 F.3d at 388. Rodriguez is warned that if he accumulates a third "strike," he will no longer be allowed 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).

Rodriguez has also moved this court for appointment of counsel to represent him on appeal. That motion is DENIED.

APPEAL DISMISSED; MOTION FOR APPOINTMENT OF COUNSEL DENIED;
SANCTIONS WARNING ISSUED.