

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-11405  
Conference Calendar

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HENRY WARREN HOLIDAY,

Plaintiff-Appellant,

versus

TOM GREEN COUNTY,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 6:01-CV-47-C  
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June 18, 2002

Before HIGGINBOTHAM, DAVIS, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Henry Warren Holiday, Texas prisoner # 567442, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint as frivolous and for failure to state a claim. Holiday's complaint asserted that his civil rights were violated because jail officials confiscated his law books for a time and placed a county property stamp on them. He also conclusionally asserts for the first time on appeal that he was denied access to courts

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

and that the jail law library was inadequate, but this court will not consider claims that are raised for the first time on appeal. See Stewart Glass & Mirror, Inc. v. U.S. Auto Glass Discount Centers, Inc., 200 F.3d 307, 316-17 (5th Cir. 2000).

The district court did not err in dismissing Holiday's deprivation-of-property claim as frivolous. See Hudson v. Palmer, 468 U.S. 517, 533 (1984). Texas has an adequate postdeprivation remedy for confiscation of prisoner property. Cathey v. Guenther, 47 F.3d 162, 164 (5th Cir. 1995).

Holiday's appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2. The dismissal of this appeal and the district court's dismissal each count as a "strike" for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). Holiday therefore has two "strikes" under 28 U.S.C. § 1915(g). We caution Holiday that once he accumulates three strikes, he may not 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 28 U.S.C. § 1915(g).