

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20636
Conference Calendar

BOYD RODGERS,

Plaintiff-Appellant,

versus

GERALD GARRETT; ALLAN B. POLUNSKY;
STATE OF TEXAS,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-99-CV-3994
- - - - -

December 11, 2001

Before HIGGINBOTHAM, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Boyd Rogers appeals the district court's dismissal as frivolous of his 42 U.S.C. § 1983 complaint. He argues that he should be compensated, either with currency or credit towards his prison sentence, for the labor he performs while he is incarcerated in a TDCJ unit. Rodgers' argument is without merit. Forcing an inmate to work without pay is not a constitutional violation. See *Ali v. Johnson*, 259 F.3d 317, 318 (5th Cir. 2001). Furthermore, a prisoner in a TDCJ unit is not entitled to work-time credit towards his release from incarceration. *Id.*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

This appeal is without arguable merit and thus frivolous. *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 district court's dismissal of Rodgers' complaint counts as a strike. See *Adepegba v. Hammons*, 103 F.3d 383, 387 (5th Cir. 1996). This court's dismissal of his appeal also counts as a strike. *Id.* Rodgers is cautioned that if he accumulates three strikes, 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 28 U.S.C. § 1915(g).

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.