

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-40331  
Conference Calendar

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MICHAEL ANTHONY MOORE,

Plaintiff-Appellant,

versus

JANIE COCKRELL; STANLEY MELVIN,  
Ad-Seg Major; KELLE LANGLEY;  
KEVIN LANGLEY; RODNEY COOPER;  
BRIAN RODEEN; ROD WILSON; JOE  
SKIPPER; ALLEN POLUNSKY; JIM SHAW;  
JOHN CARRUTHERS; JOE EASLEY; NORRIS  
JORDAN; WILLIAM GADDIS; JEFFREY CABE;  
ROBERT BROCK; REGINAL STANLEY;  
CHRIS BEARD; JEFFREY LANN;  
JAMES BURGESS; WILLIAM JONES;  
MICHAEL HORN; JUDY MCCOLLUM;  
TIM RANGE; JAMES POOLE; JOAN  
RAYBURN; LOAN HOPKINS; JAMES BURNS,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 5:01-CV-50  
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August 23, 2001

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

PER CURIAM:\*

Michael Anthony Moore, Texas prisoner number 487939, appeals the district court's dismissal of his 42 U.S.C. § 1983 suit as frivolous. Moore argues that the district court erred in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

dismissing his § 1983 suit, and he contends that the district court should have granted him leave to amend his complaint. However, Moore does not explain how the district court erred in dismissing his complaint without first granting him leave to amend it. Moore thus has not shown that the district court abused its discretion in dismissing his suit and declining to grant him leave to amend his complaint. See Pittman v. Moore, 980 F.2d 994, 994 (5th Cir. 1993); Ashe v. Corley, 992 F.2d 540, 542 (5th Cir. 1993).

Moore's appeal is without arguable merit and is thus frivolous. Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983). Because this appeal lacks merit, it is DISMISSED, and Moore's motion for appointment of counsel is DENIED. See 5th Cir. R. 42.2.

The dismissal of Moore's complaint as frivolous and the dismissal of this appeal as frivolous each count as a "strike" for the purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). We note that Moore has one other strike against him. See Moore v. Collins, No. 94-20490 (5th Cir., Jan. 26, 1995). By accumulating three strikes, Moore is BARRED from proceeding in forma pauperis in any subsequent 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).

APPEAL DISMISSED; 28 U.S.C. § 1915(g) BAR INVOKED.