

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-20162
Summary Calendar

RAYMOND EARL CARR,

Plaintiff-Appellant,

versus

GERALD NORWOOD, Program Administrator;
MS. SMITH, WSD Principal; MR. BLAIR, Bus
Barn Supervisor; MR. J. FLOWERS, WSD Principal;
MS. ROGERS, Project Rio Counsel,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CV-3553

July 18, 2002

Before JOLLY, HIGGINBOTHAM and STEWART, Circuit Judges.

PER CURIAM:*

Raymond E. Carr (Carr), Texas prisoner #676763, appeals the district court's dismissal with prejudice of his civil rights complaint as frivolous and malicious under 28 U.S.C. § 1915. We review a 28 U.S.C. § 1915(e)(2)(B)(i) dismissal of an *in forma pauperis* (IFP) complaint as frivolous for an

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

abuse of discretion. Norton v. Dimazana, 122 F.3d 286, 291 (5th Cir. 1997); Wilson v. Lynaugh, 878 F.2d 846, 850 (5th Cir. 1989) (duplicative complaints are frivolous under 28 U.S.C. § 1915).

Carr does not address the district court's finding that his claims arising from incidents in 1997 and 1998 had prescribed or its finding that his complaint was duplicative and, therefore, malicious. As Carr has failed to adequately brief these issues, they are waived. See Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993).

Carr'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 as frivolous and the district court's dismissal of this lawsuit as frivolous constitute two strikes for purposes of the 28 U.S.C. § 1915(g) bar. Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). We caution Carr that once 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 under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

DISMISSED AS FRIVOLOUS; WARNING ISSUED.