

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-20674  
Conference Calendar

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CHARLES R. KILLINGSWORTH,

Plaintiff-Appellant,

versus

GEORGE R. KILLINGSWORTH,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-02-CV-1462  
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December 11, 2002

Before JOLLY, DAVIS, and JONES, Circuit Judges.

PER CURIAM:\*

Charles Killingsworth appeals from the dismissal, for lack of subject matter jurisdiction, of his complaint against his father alleging abuse in 1974 and 1975. He specifically values his complaint at \$50,000, which is less than the \$75,000 jurisdictional limit for diversity actions. 28 U.S.C. § 1332(a). He does not show any other basis for federal jurisdiction. The district court's dismissal was not error, and the appeal is without any merit.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Accordingly, the appeal is DISMISSED AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. The dismissal of this appeal as frivolous counts as a strike for the purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). We caution Killingsworth that once he accumulates three strikes, he may not proceed in forma pauperis in any civil action or appeal filed while he is incarcerated unless he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED; THREE-STRIKES WARNING ISSUED.