

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-30551
Summary Calendar

MOSES TOOMER,

Plaintiff-Appellant,

versus

CONNIE BOWSER; CONNIE KENEDY,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana
(01-CV-473)

October 9, 2002

Before BARKSDALE, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Moses Toomer, Louisiana prisoner # 315519, appeals the district court's dismissal as frivolous of his 42 U.S.C. § 1983 action. He asserts: Defendants altered one of his prison grievances by erasing "rejected" and stamping it "accepted"; and the "accepted" grievance was forwarded to the district court. Toomer claims this interfered either with his right of access to the courts or with his prison grievance proceedings.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Toomer does not indicate how he was prejudiced in the district court by Defendants' alleged action, and he has not established a claim that he was denied access to the courts. See **Chriceol v. Phillips**, 169 F.3d 313, 317 (5th Cir. 1999). His contention that the initial rejection of his grievance interfered with his grievance procedures is also without merit, given his voluntarily choosing not to attend the hearing to determine whether to restore his good time credit.

The dismissal as frivolous of this § 1983 complaint was not an abuse of discretion. **Siglar v. Hightower**, 112 F.3d 191, 193 (5th Cir. 1997). This appeal lacks arguable merit and is **DISMISSED AS FRIVOLOUS**. See 5th Cir. R. 42.2; **Howard v. King**, 707 F.2d 215, 219-20 (5th Cir. 1983).

The dismissals by the district court and this court count as two strikes for purposes of 28 U.S.C. § 1915(g). See **Adepegba v. Hammons**, 103 F.3d 383, 385 (5th Cir. 1996). Toomer is **WARNED** that, if he receives a third strike, he may not proceed *in forma pauperis* in any civil action or appeal while he is incarcerated in any facility, unless he is in imminent danger of serious physical injury.

DISMISSED AS FRIVOLOUS; SANCTIONS WARNING GIVEN