

April 22, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-41667  
Conference Calendar

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JOHNNY AL HUNTER,

Plaintiff-Appellant,

versus

JANIE COCKRELL, DIRECTOR, TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE, INSTITUTIONAL DIVISION; VICTOR  
RODRIGUEZ, Director, Parole Division; ANN KELLY,  
Hearing Officer; PATRICK S. BRIDGES, Parole Officer,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 9:02-CV-259  
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Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

Johnny Al Hunter, Texas prisoner #609870, appeals from the dismissal of his 42 U.S.C. § 1983 claims as frivolous. Hunter challenged his parole revocation proceeding in a 42 U.S.C. § 1983 action. The district court dismissed the 42 U.S.C. § 1983 claims pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994), because the result of the revocation proceeding has not been invalidated.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Hunter does not brief whether the district court erred by dismissing his 42 U.S.C. § 1983 claims pursuant to *Heck*, the sole dispositive ground for the dismissal of those claims. See *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). We therefore do not address the contentions Hunter does raise on appeal.

Hunter's appeal is without arguable merit and is frivolous. See *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). The district court's dismissal of Hunter's action and this court's dismissal of his appeal but count as "strikes" against Hunter for purposes of 28 U.S.C. § 1915(g). *Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Hunter previously had a civil action dismissed for failure to state a claim, another "strike" for purposes of 28 U.S.C. § 1915(g). *Hunter v. Cockrell*, No. C-02-77 (S.D. Tex. Jul. 16, 2002). Because Hunter has accumulated three "strikes," he may not proceed *in forma pauperis* in any civil action or appeal unless he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

APPEAL DISMISSED AS FRIVOLOUS; 28 U.S.C. § 1915(g) SANCTION IMPOSED.