

June 24, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-60148  
Conference Calendar

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DENNIS DOBBS,

Plaintiff-Appellant,

versus

STATE OF MISSISSIPPI; MISSISSIPPI DEPARTMENT OF  
CORRECTIONS; WILLIAM BILL BLAND; LEE ROY BLACK,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 1:92-CV-71-B-D  
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Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Dennis Dobbs, Mississippi prisoner # 96145, has filed a motion for leave to proceed *in forma pauperis* (IFP) on appeal. The district court denied Dobbs' FED. R. CIV. P. 60(b) motion for relief from the dismissal of his 42 U.S.C. § 1983 complaint. The district court denied Dobbs' motion to appeal IFP and certified that the appeal was not taken in good faith. By moving for IFP,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Dobbs is challenging the district court's certification. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Dobbs has failed to show that the district court abused its discretion by denying his FED. R. CIV. P. 60(b) motion. Seven Elves, Inc. v. Eskenazi, 635 F.2d 396, 402 (5th Cir. 1981). The instant appeal is without arguable merit and is thus frivolous. Accordingly, Dobbs' request for IFP status is DENIED, and his appeal is DISMISSED. Howard v. King, 707 F.2d 215, 219-220 (5th Cir. 1983); 5TH CIR. R. 42.2.

Dobbs is cautioned that the dismissal of this appeal as frivolous counts as a strike under 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). Dobbs is also cautioned that if he accumulates three strikes under 28 U.S.C. § 1915(g), 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).

IFP MOTION DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.