

May 21, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-10478
Summary Calendar

KEITH CAMPBELL,

Plaintiff-Appellant,

versus

PACE SETTER PERSONNEL,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:05-CV-2099

Before DAVIS, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Keith Campbell, Texas prisoner # 1219880, has filed a motion for leave to proceed in forma pauperis (IFP) on appeal. The district court denied Campbell's IFP motion and certified that the appeal was not taken in good faith. By moving for IFP, Campbell is challenging the district court's certification. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Campbell does not challenge the district court's analysis, nor does he argue that the district court erred in determining that he failed to present an arguable or non-frivolous issue for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appeal. Therefore, these issues are deemed abandoned. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Campbell has not shown that the district court's certification was incorrect. The instant appeal is without arguable merit and is thus frivolous. Accordingly, Campbell's request for IFP status is denied, and his appeal is dismissed as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

The district court's dismissal of Campbell's complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and this court's dismissal of the instant appeal as frivolous both count as strikes for purposes of § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). Campbell has also accumulated a third strike in Campbell v. Bear, No. 06-10196, which this court has dismissed as frivolous on this date. Accordingly, because Campbell has accumulated at least three strikes, he is barred from proceeding IFP in any civil action or appeal brought while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See § 1915(g). Campbell is further cautioned that any future frivolous or repetitive filings in this court or any court subject to this court's jurisdiction will subject him to additional sanctions as will the failure to withdraw any pending matters that are frivolous.

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MOTION DENIED; APPEAL DISMISSED; 28 U.S.C. § 1915(g) BAR
IMPOSED; SANCTION WARNING ISSUED.