

July 3, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-10651
Summary Calendar

CHRISTOPHER JONES,

Plaintiff-Appellant,

versus

RAMOS, Lieutenant, Smith Unit; V.R. RAMIREZ, Correctional
Officer, Smith Unit; DAVIS, Captain, Smith Unit; FONDREN,
Assistant Warden, Smith Unit; GENTRY, Major, Smith Unit; GARZA,
Captain, Smith Unit; C.C. BELL, Warden; JAMIE BAKER, Assistant
Regional Director,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:06-CV-94

Before DAVIS, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Christopher Jones, Texas prisoner # 656546, appeals from the
district court's dismissal with prejudice as frivolous of his
complaint purportedly filed pursuant to 18 U.S.C. § 241. We
review the district court's dismissal for abuse of discretion.
See Siglar v. Hightower, 112 F.3d 191, 193 (5th Cir. 1997).

Jones contends that numerous employees at the prison

* 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this opinion should not be published and is not precedent except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.

facility engaged in a conspiracy against him for filing inmate grievances. Jones sought relief under a criminal statute. See § 241; United States v. Bigham, 812 F.2d 943, 945 (5th Cir. 1987). The decision whether or not to bring criminal charges rests solely with the prosecutor. See Bigham, 812 F.2d at 945; United States v. Carter, 953 F.2d 1449, 1462 (5th Cir. 1992); see also Oliver v. Collins, 914 F.2d 56, 60 (5th Cir. 1990).

Accordingly, Jones has not shown that the district court abused its discretion in dismissing his claims against the defendants as frivolous. See Siglar, 112 F.3d at 193.

Jones's appeal is without arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, we dismiss his appeal as frivolous. 5TH CIR. R. 42.2. The dismissal of this appeal as frivolous and the district court's dismissal of Jones's complaint as frivolous count as two strikes under 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). Jones is warned that if he accumulates three strikes under § 1915(g), he will not be able to proceed in forma pauperis 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 § 1915(g).

APPEAL DISMISSED; SANCTION WARNING ISSUED.