

June 19, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-41040
Conference Calendar

DEMETRIS GUZMAN,

Plaintiff-Appellant,

versus

JORDAN HOLLINGSWORTH,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:06-CV-245

Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:*

Demetris Guzman, federal prisoner # 66401-079, appeals the dismissal of his action pursuant to Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971) as frivolous and for failure to state a claim under 28 U.S.C. § 1915A. Guzman's suit alleged that he was deprived of certain privileges as punishment for his participation in a prison food strike, including a 90-day reduction in his pay grade. By limiting his brief on appeal to the wage claim, Guzman has abandoned any other

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

due process claims raised in the district court. See United States v. Lucien, 61 F.3d 366, 370 (5th Cir. 1995).

We review the dismissal de novo. See Ruiz v. United States, 160 F.3d 273, 275 (5th Cir. 1998). Contrary to Guzman's assertions, the protections of the Due Process Clause do not attach to any disciplinary action by prison officials. Rather, due process applies only when government action threatens a protected liberty or property interest. Blackburn v. City of Marshall, 42 F.3d 925, 935 (5th Cir. 1995).

Guzman must identify some legal authority creating a legitimate expectation in compensation at a particular rate. See Brooks v. George County, Miss., 84 F.3d 157, 163 (5th Cir. 1996). We have previously held that prisoners have no liberty or protected property interest in particular prison job assignments. See Bulger v. United States Bureau of Prisons, 65 F.3d 48, 49-51 (5th Cir. 1995). Given the discretion of prison officials with respect to job assignments and wage determinations, Guzman has failed to show that the 90-day reduction in his wages deprived him of any interest subject to the protections of the Due Process Clause.

As Guzman's appeal lacks arguable merit, we dismiss his appeal as frivolous. See 5TH CIR. R. 42.2; Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). The dismissal by the district court of Guzman's suit and the dismissal of this appeal as frivolous count as two strikes under 28 U.S.C. § 1915(g). See

Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996).

Guzman is cautioned 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).

DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.