

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

April 25, 2008

Charles R. Fulbruge III
Clerk

No. 07-40185
Summary Calendar

GERALD RAY BARROW

Plaintiff-Appellant

v.

MRS MOORE, McConnell Mailroom; UNITED STATES POST OFFICE

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:06-CV-383

Before SMITH, BARKSDALE, and ELROD, Circuit Judges.

PER CURIAM:*

Gerald Ray Barrow, Texas prisoner # 579954, filed a lawsuit pursuant to 42 U.S.C. § 1983 claiming that Mrs. Moore, McConnell Unit mail room, and the United States Post Office interfered with his mail, resulting in lost documents. The district court dismissed Barrow's complaint for failure to state a claim and as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1).

In his brief, Barrow does not raise any arguments regarding his claim that appellees interfered with his mail. While this court liberally construes pro se

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

briefs, arguments must be briefed to be preserved. *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). This court “will not raise and discuss legal issues that [Barrow] has failed to assert.” *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Barrow has therefore waived any challenge to the district court’s dismissal of his claim that appellees interfered with his mail or otherwise denied him access to the courts as frivolous and for failure to state a claim. See *Hughes v. Johnson*, 191 F.3d 607, 613 (5th Cir. 1999).

The district court’s dismissal of the complaint for failure to state a claim and as frivolous counts as a strike under 28 U.S.C. § 1915(g). See *Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Barrow has previously accumulated two strikes. See *Barrow v. Tex. Dept. Corr. et al.*, No. C-04-496 (S.D. Tex. Oct. 17, 2006); *Barrow v. Swisher County*, No. C-04-455 (S.D. Tex. Mar. 16, 2005). As Barrow has now accumulated at least three strikes, he may not proceed in forma pauperis in any civil action or appeal while incarcerated unless he “is under imminent danger of serious physical injury.” § 1915(g).

Barrow’s motions to supplement the record with additional documents and to allow attachments to the brief are denied.

DISMISSED AS FRIVOLOUS (See 5TH CIR. R. 42.2 (“If . . . it appears to the court that the appeal is frivolous and entirely without merit, the appeal will be dismissed.”)); 28 U.S.C. § 1915(g) BAR IMPOSED; MOTIONS DENIED.