

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-20450
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 11, 2014

Lyle W. Cayce
Clerk

DARRELL LEE HALL,

Plaintiff-Appellant

v.

ANA A. SANCHEZ, Security Threat Group Sargeant; DOUGLASS B.
REYNOLDS; THOMAS W. BOUGHNER,

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:13-CV-1993

Before REAVLEY, JONES, and PRADO, Circuit Judges.

PER CURIAM:*

Darrell Lee Hall, Texas prisoner # 1330580, proceeding pro se and in forma pauperis (IFP), appeals the dismissal of his 42 U.S.C. § 1983 complaint as frivolous. Hall contends that his due process rights were violated when false disciplinary charges were filed against him; his request to call witnesses at his disciplinary hearing was denied; he was found guilty of the disciplinary violation on insufficient evidence; and he lost commissary and recreation privileges for seven days. He further contends that the district court should

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 13-20450

not have dismissed his complaint with prejudice without first giving him the opportunity to amend.

Hall's arguments regarding the disciplinary charge, proceeding, and punishment do not present a cognizable constitutional claim. *See Sandin v. Conner*, 515 U.S. 472, 483-84 (1995); *Malchi v. Thaler*, 211 F.3d 953, 958 (5th Cir. 2000). Hall also fails to explain how he would have amended his complaint to include a legally cognizable claim. Accordingly, the district court did not abuse its discretion by dismissing his complaint without permitting him to amend it. *See Brewster v. Dretke*, 587 F.3d 764, 767-68 (5th Cir. 2009).

Hall's appeal is without arguable merit and, therefore, is dismissed as frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2. Hall's motion for the appointment of appellate counsel is denied. *See Ulmer v. Chancellor*, 691 F.2d 209, 212, 213 (5th Cir. 1982).

The district court's dismissal of Hall's complaint as frivolous and our dismissal of his appeal as frivolous count as two strikes for purposes of § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 388 (5th Cir. 1996). Hall is hereby cautioned that if he accumulates three strikes he will no longer be allowed to 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." § 1915(g).

APPEAL DISMISSED; MOTION DENIED; SANCTION WARNING ISSUED.