

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

No. 13-30092
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 5, 2013

Lyle W. Cayce
Clerk

KENNETH J. MOUTON,

Plaintiff-Appellant

v.

STATE OF LOUISIANA; PETER Q. JOHN, Attorney # 25725 O'Neal Legal,
L.L.C.; LOUISIANA DISCIPLINARY BOARD; O'NEAL LEGAL, L.L.C.;
CHARLES B. PLATTSMIRE, Chief Disciplinary Counsel,

Defendants-Appellees

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:12-CV-236

Before JONES, CLEMENT, and PRADO, Circuit Judges.

PER CURIAM:*

Kenneth J. Mouton, Louisiana prisoner # 328541, moves for leave to proceed in forma pauperis (IFP) on appeal from the dismissal of his 42 U.S.C. § 1983 complaint as frivolous and for failure to state a claim pursuant to 28 U.S.C. § 1915(e). Mouton's claims against attorney Peter Q. John, the O'Neal legal firm, the Lafayette Parish District Attorney's Office, District Attorney

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Ronald Dauterive, Judge Patrick Michot, juror Wayne Clifton, and attorney Harold Register were dismissed as duplicative and frivolous. His claims against Charles Plattsmire and the Louisiana Disciplinary Board were dismissed on grounds of immunity.

The district court denied Mouton's request for IFP status, certifying that an appeal would not be taken in good faith. By moving to proceed IFP on appeal, Mouton challenges the district court's certification. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). He also moves for appointment of counsel and designation of record.

Mouton provides only conclusory arguments that the district court erred, without citations to the record and without reference to any relevant legal authorities. His appeal fails to set forth any issue of arguable legal merit and is, therefore, frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). His motion to proceed IFP is denied, and we dismiss his appeal as frivolous. *See* 5TH CIR. R. 42.2. His motion for appointment of counsel and designation of record is also denied.

The district court's dismissal of his complaint as frivolous and the dismissal of this appeal count as two strikes under 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Mouton has one previous strike. *See Mouton v. John, et al.*, No. 3:11-CV-225 (M.D. La. Apr. 26, 2011). Mouton has now accumulated three strikes; therefore, he is barred from proceeding 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).

IFP MOTION DENIED; APPEAL DISMISSED; MOTION FOR APPOINTMENT OF COUNSEL AND DESIGNATION OF RECORD DENIED; 28 U.S.C. § 1915(g) BAR IMPOSED.