

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

No. 15-20525

United States Court of Appeals
Fifth Circuit

FILED

October 5, 2016

Lyle W. Cayce
Clerk

JEREMY MUNDINE,

Plaintiff-Appellant

v.

LIEUTENANT GUSTAFSON,

Defendant-Appellee

DIRECTOR TEXAS DEPARTMENT OF CRIMINAL JUSTICE,

Debtor-Appellee

ALL THREE WARDENS OF ELLIS UNIT; OFFICER SMITH; MS. REED;
DOCTOR BETTY WILLIAMS; SENIOR WARDEN M. ROESLER;
ASSISTANT WARDEN GORSUCH; WARDEN LANDIS,

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:15-CV-2169

Before JONES, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 15-20525

Jeremy Mundine, Texas prisoner # 1131861, moves for leave to appeal in forma pauperis (IFP) the dismissal of his 42 U.S.C. § 1983 suit pursuant to 28 U.S.C. § 1915(g). Mundine does not dispute that he has three strikes but argues that he should not be subject to the § 1915(g) bar because he is in imminent danger of serious physical injury. In support of his contention, he asserts that he was required to perform manual labor in violation of medical restrictions, and, as a result, he suffered severe pain, and his pre-existing back injury worsened. Mundine acknowledges that he received medical treatment, additional medical restrictions, and a new work assignment following his most recent injuries, but he insists that he remains in imminent danger.

Mundine's allegations do not establish that he is in imminent danger of serious physical injury. *See Baños v. O'Guin*, 144 F.3d 883, 884-85 (5th Cir. 1998). Accordingly, his motion for leave to proceed IFP is DENIED, and his appeal is DISMISSED.