

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

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No. 15-41035  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

December 7, 2016

Lyle W. Cayce  
Clerk

JOSE FIDENCIO GARZA,

Plaintiff-Appellant

v.

WARDEN GARY CURRIE; SERGEANT MAYER; LIEUTENANT AMBRIZ,

Defendants-Appellees

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:15-CV-155

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Before HIGGINBOTHAM, PRADO, and HAYNES, Circuit Judges.

PER CURIAM:\*

Jose Fidencio Garza, Texas prisoner # 01576511, appeals the dismissal of his 42 U.S.C. § 1983 complaint pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i) and (ii) and 1915A(b)(1) as frivolous and for failure to state a claim on which relief may be granted. The district court did not err in dismissing the complaint as his claims lacked an arguable basis in law or contained insufficient factual matter to state a plausible claim for relief. *See Ashcroft v. Iqbal*, 556 U.S. 662,

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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678 (2009); *Samford v. Dretke*, 562 F.3d 674, 678 (5th Cir. 2009); *Black v. Warren*, 134 F.3d 732, 734 (5th Cir. 1998). The judgment is AFFIRMED. The motions for discovery of evidence, disqualification and summary judgment, and expedited consideration are DENIED.

The dismissal of Garza's § 1983 complaint as frivolous and for failure to state a claim on which relief may be granted counts as a strike under § 1915(g). *See* § 1915(g); *Coleman v. Tollefson*, 135 S. Ct. 1759, 1763-64 (2015); *Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Garza is WARNED that if he accumulates three strikes, he will not be allowed 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).