

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

United States Court of Appeals  
Fifth Circuit

**FILED**

September 18, 2017

Lyle W. Cayce  
Clerk

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No. 16-10465  
Summary Calendar

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JOSEPH BERNARD FOWLER, also known as Eugene Bernard Fowler, also known as Joe Fowler, also known as Eugene Fowler,

Plaintiff–Appellant,

v.

MR. NFN WHITFIELD; OLIVER BELL, Chairman of Texas Board of Corrections; JAMIE BAKER, Warden; JOE MILBERN, Assistant Warden; ANTHONY MARTINEZ, Captain; ALFREDA CARREON, Captain; SANDRA TYRA, Grievance Investigator II; B. PARKER, Regional Director/Assistant,

Defendants–Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:15-CV-290

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Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:\*

Joseph Bernard Fowler, Texas prisoner # 1812422, appeals the district court’s dismissal of his civil rights lawsuit as frivolous and for failure to state a claim on which relief may be granted. *See* 28 U.S.C. §§ 1915A(b), 1915(e)(2);

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

## No. 16-10465

42 U.S.C. § 1997e(c)(1). Although his brief repeats some of his allegations in the district court, he fails to address the basis for the district court's dismissal of his claims. We liberally construe pro se briefs, but "even pro se litigants must brief arguments in order to preserve them." *Mapes v. Bishop*, 541 F.3d 582, 584 (5th Cir. 2008). Fowler's failure to point to any error in the district court's ruling is in practical effect the same as if the judgment had not been appealed. *See Brinkmann v. Dallas Cty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Accordingly, we dismiss his appeal as frivolous. *See* 5TH CIR. R. 42.2.

The dismissal in the district court and our dismissal on appeal each count as a strike under 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). The district court also dismissed Fowler's complaints as frivolous in *Fowler v. Exec. Dir. of Pardons and Paroles*, No. 2:05-cv-00235 (N.D. Tex. Feb. 1, 2016), and *Fowler v. Exec. Dir. of Pardons and Paroles*, No. 2:05-cv-00249 (N.D. Tex. Feb. 1, 2016). Because he has accumulated at least three strikes under § 1915(g), Fowler 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).

We deny Fowler's motions for appointment of counsel, *see Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir. 1982), and his "omnibus motion questioning the court," *see Carpenter v. Wichita Falls Indep. Sch. Dist.*, 44 F.3d 362, 368 n.5 (5th Cir. 1995).

APPEAL DISMISSED; MOTIONS DENIED; 28 U.S.C. § 1915(g) BAR IMPOSED.