

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 26, 2021

Lyle W. Cayce
Clerk

No. 20-20210

JARVIS DUGAS,

Plaintiff—Appellant,

versus

TRAVIS SCOTT; ROCK NATION, *Record Label*; DAMON DASH;
DRAKE, *The Houston Rapper*,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:19-CV-3877

Before JONES, DUNCAN, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Jarvis Dugas, Texas prisoner # 1386881, moves for leave to appeal in forma pauperis (IFP) from the district court's dismissal of Dugas's putative civil rights action under 42 U.S.C. § 1983 and the denial of post-judgment motions. He also moves for appointment of counsel.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-20210

Due to the timing of Dugas's post-judgment motions and his notice of appeal, we have jurisdiction to consider only a February 27, 2020, denial of a motion under Federal Rule of Civil Procedure 60. *See United States v. One 1988 Dodge Pickup*, 959 F.2d 37, 39 (5th Cir. 1992); *Eleby v. American Medical Systems*, 795 F.2d 411, 412-413 (5th Cir. 1986); *cf. Shepherd v. Int'l Paper Co.*, 372 F.3d 326, 329 n.2 (5th Cir. 2004) (explaining the relationship between Federal Rule of Appellate Procedure 4(a)(4)(A) and Rule 4(a)(4)(B)(i)).

Dugas fails to identify any nonfrivolous issue for appeal. *See McGarrah v. Alford*, 783 F.3d 584, 584 (5th Cir. 2015). His putative § 1983 claims are frivolous because he fails to assert any deprivation of constitutional rights "by a person acting under color of state law." *Whitley v. Hanna*, 726 F.3d 631, 638 (5th Cir. 2013) (internal quotation marks and citation omitted). His state law claims are vague, conclusional, and without any clearly stated legal or factual basis.

Because the appeal has no arguable merit, it is DISMISSED as frivolous. The motions to proceed IFP and for appointment of counsel are DENIED. The dismissal of this appeal as frivolous and the district court's dismissal for failure to state a claim each count as a strike under 28 U.S.C. § 1915(g). *See Coleman v. Tollefson*, 575 U.S. 532, 537 (2015). A prior strike was imposed by the district court in October 2019. Because Dugas now has accumulated a total of three strikes, he is BARRED from proceeding 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. *See* § 1915(g).

IFP DENIED; APPOINTED COUNSEL DENIED;
APPEAL DISMISSED; THREE STRIKES BAR IMPOSED.