

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

March 14, 2024

Lyle W. Cayce  
Clerk

---

No. 23-30770  
Summary Calendar

---

SPENCER WILL HENRY,

*Plaintiff—Appellant,*

*versus*

STATE OF LOUISIANA; JEFF LANDRY, *Attorney General,*

*Defendants—Appellees.*

---

Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 3:23-CV-547

---

Before WILLETT, DUNCAN, and RAMIREZ, *Circuit Judges.*

PER CURIAM:\*

Spencer Will Henry, Louisiana prisoner # 344747, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint for failure to state a claim pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1). We review the dismissal de novo. *Legate v. Livingston*, 822 F.3d 207, 209-10 (5th Cir. 2016).

---

\* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

No. 23-30770

Henry has abandoned, by failure to brief, any challenge to the dismissal of his complaint. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). In any event, the district court did not err in concluding that his claims, which asserted that his conviction and confinement based on a non-unanimous jury verdict violated his constitutional rights, were not properly brought under § 1983 and could be brought only in a habeas proceeding. *See Poree v. Collins*, 866 F.3d 235, 243 (5th Cir. 2017).

Accordingly, the district court's judgment is AFFIRMED. The dismissal of Henry's complaint counts as a strike under § 1915(g). *See Coleman v. Tollefson*, 575 U.S. 532, 534 (2015). Henry is WARNED that, if he accumulates three strikes, he may not proceed in forma pauperis in any civil action or appeal while he is incarcerated or detained in any facility unless he is in imminent danger of serious physical injury. § 1915(g).