

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

March 27, 2024

Lyle W. Cayce  
Clerk

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No. 23-40385  
Summary Calendar

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JEWELL THOMAS,

*Plaintiff—Appellant,*

*versus*

ANDREW NINO; GAGE RIVAS; MATTHEW HERRERA; ELBERT  
HOLMES; ISSAC KWARTENG; BRYAN COLLIER,

*Defendants—Appellees.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:22-CV-252

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Before BARKSDALE, GRAVES, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:\*

Proceeding *in forma pauperis* (IFP), Jewell Thomas, Texas prisoner # 02350417, contests the dismissal of his action for which he proceeded *pro se* in district court, against several prison employees. When Thomas filed his notice of appeal and moved for leave to proceed IFP, he had, on at least three

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

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prior occasions, brought an action or appeal in a court of the United States that was dismissed as frivolous, malicious, or for failure to state a claim. *See Thomas v. Carter*, No. 2:22-cv-133 (S.D. Tex. Nov. 1, 2022); *Thomas v. Sanchez*, No. 2:22-cv-129 (S.D. Tex. Nov. 17, 2022); *Thomas v. Samuel*, No. 2:22-cv-158 (S.D. Tex. Feb. 3, 2023).

He is therefore prevented from proceeding IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is in imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g) (outlining IFP three-strike rule). Thomas does not allege, and the record does not show, he was under imminent danger of serious physical injury when he filed his notice of appeal or his IFP motion at issue. *See id.* Accordingly, the district court improvidently granted him leave to proceed IFP on appeal.

If he chooses to reinstate his appeal, Thomas has 30 days from the date of this opinion to pay the full appellate filing fee to the clerk of the district court.

**SECTION 1915(g) BAR IMPOSED; IFP DECERTIFIED;  
APPEAL DISMISSED.**