

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-30097
Summary Calendar

EVARISTUS MACKEY,

Plaintiff-Appellant,

versus

WINN CORRECTIONAL CENTER ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 93-CV-965
- - - - -

July 22, 1997

Before WISDOM, JOLLY, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Prisoner-appellant, Evaristus Mackey, Louisiana inmate #317335, filed a notice of appeal in this § 1983 action before the effective date of the Prison Litigation Reform Act (PLRA). In *Strickland v. Rankin County Correctional facility*,¹ this court held that "prisoners whose appeals were pending on the effective date of the PLRA must refile to this court in conformity with the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

¹ 105 F.3d 972 (5th Cir. 1997).

amended statute before we consider their appeals on the merits".² The financial affidavits filed by Mackey in the district court do not comply with the requirements for seeking *in forma pauperis* (IFP) status under the PLRA. Mackey has filed no documents in this court in support of his economic eligibility to proceed IFP. Mackey has a choice: he may refile this appeal in accordance with the PLRA, or he may drop the appeal. We will not consider Mackey's appeal "filed" for the purposes of § 1915(b), as amended, unless he refiles.³

Mackey has 30 days from the date of this order to comply with the provisions of 28 U.S.C. § 1915. This appeal is held in abeyance until Mackey complies herewith, or until the expiration of 30 days, whichever comes first. If Mackey does not comply within the 30 days, the clerk of this court is to dismiss the appeal for lack of prosecution.⁴

² Id. at 974.

³ Id. at 976.

⁴ See Fifth Circuit Rule 42.3.