

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40933
Conference Calendar

HERBERT HERMAN FEIST EL,

Plaintiff-Appellant,

versus

BRAZORIA COUNTY SHERIFF'S DEPARTMENT,
BRAZORIA COUNTY DISTRICT ATTORNEY;
HEAD OFFICIAL DARRINGTON UNIT - INTERNAL
AFFAIRS DIVISION; KEITH PRICE; DARRINGTON UNIT,
ASST. WARDEN OVER SEGREGATION; CITIZENS OF
BRAZORIA COUNTY, TEXAS,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-94-CV-229

October 20, 1999

Before JONES, WIENER, and STEWART, Circuit Judges.

PER CURIAM:*

Herbert Herman Feist El (Feist), Texas prisoner # 318012, appeals the dismissal of his civil rights action under 42 U.S.C. § 1983 as frivolous. On appeal, Feist has failed to identify any specific allegation showing that the district court erred in dismissing his claims because his conclusional allegations were insufficient to state a claim under § 1983. See Hale v. Harney,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

786 F.2d 688, 690 (5th Cir. 1986). Feist's appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2.

Feist had one verified strike. Feist v. Johnson, No. 2:97CV376 (N.D. Tex. Jan. 23, 1998)(unpublished). Because of the district court's dismissal as frivolous of the original action and this court's dismissal as frivolous of the appeal, Feist has now acquired two more strikes. He may no longer proceed IFP in any civil action or appeal filed while he is in prison unless he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g); Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996).

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