

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-40182  
Conference Calendar

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JAMES ISHMAEL TIBBS,

Plaintiff-Appellant,

versus

D. MARTIN, Officer at Telford Unit;  
J. MAIDENS, Lieutenant at Telford Unit;  
HASSAL, Captain at Telford Unit;  
THALAND, Sergeant at Telford Unit,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 5:96-CV-354  
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April 8, 1998

Before JOLLY, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:\*

The district court granted James Ishmael Tibbs, Texas prisoner # 702590, leave to proceed in forma pauperis (IFP) on appeal from the district court's dismissal of his 42 U.S.C.

§ 1983 complaint as frivolous. However, a prisoner may not

bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). We previously noted that Tibbs had at least three strikes against him prior to the district court's granting Tibbs leave to proceed IFP on this appeal. See Tibbs v. Texas Dep't of Criminal Justice, No. 97-40079 (5th Cir. Oct. 23, 1997)(unpublished)(stating that Tibbs had filed 3 or more lawsuits that were dismissed as frivolous, malicious, or for failure to state a claim and notifying Tibbs that he would no longer be able to proceed IFP); Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). Therefore, except for cases involving an imminent danger of serious physical injury, Tibbs may not proceed IFP. This appeal is DISMISSED. Tibbs may reinstate this appeal by paying the full appellate filing fee of \$105 to the clerk of the district court within 30 days from the date of this opinion.

DISMISSED.