

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50428
Conference Calendar

BENNY EUGENE TRIMBLE,

Plaintiff-Appellant,

versus

ANTHONY FITZWATER, CO III;
ALLEN KEEFE, Sergeant;
JACK/JACKIE EDWARDS,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-96-CV-337
- - - - -

February 11, 1998

Before SMITH, EMILIO M. GARZA, and DeMOSS, Circuit Judges.

PER CURIAM:*

Benny Eugene Trimble, Texas prisoner #382326, has filed an application for leave to proceed in forma pauperis (IFP) on appeal, following the district court's dismissal of his 42 U.S.C. § 1983 complaint for failure to state a claim upon which relief

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

could be granted. 28 U.S.C. § 1915(e)(2)(B)(ii). By moving for IFP, Trimble is challenging the district court's certification that IFP status should not be granted on appeal because his appeal is not taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Trimble does not contest the district court's determination that he had not alleged any facts tending to show that prison officials were deliberately indifferent to his safety. Rather, he challenges the court's denial of his post-judgment motion seeking leave to file a second amended complaint. However, Trimble does not show that the district court abused its discretion in denying his post-judgment motion for leave to amend. See Bridgley v. Scott, 63 F.3d 364, 379-81 (5th Cir. 1995). Accordingly, we uphold the district court's order certifying that the appeal is not taken in good faith. Trimble's request for IFP status is DENIED, and his appeal is DISMISSED as meritless. See Baugh, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2.

IFP DENIED. APPEAL DISMISSED.