

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-60389
Conference Calendar

MYRON VINCIENT ROWE,

Plaintiff-Appellant,

versus

ALICIA HANSHAW, Justice Court
Clerk, Individually and in
Her Official Capacity; STEVEN
SHAW, Investigator, Individually
and in His Official Capacity;
HARRISON COUNTY; BOARD OF
SUPERVISORS, of the 2nd Judicial
District of Harrison County;
R. N. ELEUTERIUS; HOMER DEDEAUX,
Individually and in his Official
Capacity; DAVID LAROSA, Individually
and in his Official Capacity;
PHILLIP ALLEN, Individually and
in his Official Capacity; C. T.
SWITZER, JR., Individually and in
his Official Capacity; JUSTICE
COURT CLERK'S OFFICE,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:97-CV-33-GR
- - - - -

June 17, 1998

Before DAVIS, PARKER, and DENNIS, Circuit Judges.

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Myron Vincient Rowe, Mississippi prisoner # 50681, appeals the dismissal of his suit pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Rowe contends that the district court erred in dismissing his suit pursuant to Heck v. Humphrey, 512 U.S. 477 (1994), and he argues that the dismissal should not count as one "strike" under 28 U.S.C. § 1915(g). Rowe also argues that "Judge Shattner Brum" should not have presided over his case, and he seeks Judge Brum's recusal in favor of Judge Walter J. Gex, III, to whom the case was assigned.

We have reviewed the record and Rowe's brief and hold that the district court did not err in dismissing the action pursuant to Heck. Johnson v. McElveen, 101 F.3d 423, 424 (5th Cir. 1996). The district court's dismissal under § 1915(e) will count as one "strike" under § 1915(g). Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). It appears that Rowe has misread Judge Gex's signature as both the opinion and final judgment were signed by Judge Gex.

Further, we hold that Rowe's appeal is frivolous, and accordingly, we DISMISS the appeal as frivolous. 5th Cir. R. 42.2. Rowe's motion to amend his appellate brief to add a motion for protective order is DENIED.

We caution Rowe that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, Rowe is further cautioned to review any pending

appeals to ensure that the appeals do not raise arguments that are frivolous.

APPEAL DISMISSED AS FRIVOLOUS. MOTION DENIED. SANCTION WARNING ISSUED.