

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11119
Conference Calendar

LOWELL RUSSELL PUGH,

Plaintiff-Appellant,

versus

DALLAS POLICE DEPARTMENT ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:98-CV-1901-G
- - - - -

April 16, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:*

Lowell Russell Pugh, Jr., Dallas County prisoner #98042452, appeals from the dismissal of his civil rights action as frivolous. Pugh moves to supplement the record on appeal; his motion is DENIED.

Pugh contends that he was denied a copy of his police report in violation of his constitutionally protected rights and Texas state law; that police violated his constitutionally protected rights by failing to investigate individuals other than

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

himself; and that he was deprived of access to the courts because he was not allowed to use the jail law library.

To the extent that Pugh sought expungement of his records in his complaint, the district court should have abstained from addressing Pugh's claims, as his state-court prosecution was ongoing. *Younger v. Harris*, 401 U.S. 37, 56 (1971). Regarding Pugh's claims for damages, we have reviewed Pugh's brief and the record and we find no nonfrivolous appellate issues. Accordingly, Pugh's appeal is dismissed as frivolous. The dismissal of Pugh's complaint and the dismissal of this appeal as frivolous count as two strikes for purposes of 28 U.S.C. § 1915(g). We caution Pugh that once he accumulates three strikes, he may not proceed IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED. 5TH CIR. R. 42.2.