

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-11185  
Conference Calendar

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KIM JEROME CARTER,

Plaintiff-Appellant,

versus

STEVEN S. STAVRON,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:98-CV-697-Y  
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August 24, 1999

Before KING, Chief Judge, and DAVIS and SMITH, Circuit Judges.

PER CURIAM:\*

Kim Jerome Carter, Texas inmate #606546, has filed a "Motion to Dismiss Summary Disposition" and a "Motion Certifying Appeal is Taken in Good Faith," which we construe as a motion for leave to proceed in forma pauperis (IFP) on appeal.

Carter fails to challenge the district court's determination that the appeal is not taken in good faith and fails to challenge the court's rationale for dismissing the civil rights complaint\*\*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

\*\* Carter brought suit against the private attorney who represented him in state court criminal proceedings in 1993.

pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b). Thus, even if there is a nonfrivolous issue for appeal, the issue is deemed abandoned. See Al-Ra'id v. Ingle, 69 F.3d 28, 31 (5th Cir. 1995); see also Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986) ("To proceed on appeal [IFP], a litigant must be economically eligible, and his appeal must not be frivolous.").

Leave to appeal IFP is DENIED. This appeal is frivolous and therefore is dismissed. See 5th Cir. R. 42.2.

The dismissal of the lawsuit as frivolous in the district court and the dismissal of this appeal as frivolous each count as a strike for purposes of 28 U.S.C. § 1915(g). We caution Carter 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 § 1915(g).

IFP DENIED. APPEAL DISMISSED.