

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40720
Conference Calendar

RORY B. SHARP ET AL.,

Plaintiffs,

WILLIE A. MILTON,

Plaintiff-Appellant,

versus

WAYNE SCOTT, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-96-CV-262
- - - - -

April 16, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:*

Willie A. Milton, Texas state prisoner #561014, appeals from the district court's dismissal of his civil rights complaint as frivolous and for failure to state a claim upon which relief could be granted. Milton argues that he was retaliated against

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

for acting as a jailhouse lawyer for a fellow inmate and was retaliated against for filing a claim under the Americans with Disabilities Act. We have reviewed the record and find no reversible error. The appeal is without arguable merit and thus frivolous. Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.

With the dismissal of this appeal as frivolous and the dismissal by the district court, along with the dismissal of Milton's appeal in Milton v. Scott, No. 98-40731, Milton now has eight "strikes" for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). Milton is reminded that he is barred from filing any civil action or appeal in forma pauperis unless he is under imminent danger of serious physical injury. § 1915(g); see Davis v. Scott, Nos. 98-40689 & 98-40695 (5th Cir. Feb. 10, 1999)(unpublished).

APPEAL DISMISSED; APPELLANT BARRED. See 28 U.S.C. § 1915(g)