

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-50734  
Conference Calendar

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MARTIN LUTHER ALLEN,

Plaintiff-Appellant,

versus

SAMUEL D. OLIVAREZ, Sergeant; LAMONT  
POWELL, Officer; CLINTON D. LOWE,  
Officer; LUIS AGUILAR, Officer,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. SA-97-CV-630  
- - - - -

April 19, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Martin Luther Allen, a Texas prisoner (# 689468), has filed a motion for leave to proceed in forma pauperis ("IFP") on appeal, following the dismissal of his complaint as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B). By moving for IFP status, Allen is challenging the district court's certification that IFP should not be granted on appeal because his appeal presents no

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

nonfrivolous issues. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Allen argues that the district court erred in concluding that his excessive-use-of-force claim was barred Edwards v. Balisok, 117 S. Ct. 1584 (1997), in that his claim, if successful, would implicate the validity of a disciplinary conviction imposed upon him in prison. Because the allegations of Allen's own complaint would call into the question the propriety of the disciplinary conviction, however, Allen is incorrect.

Accordingly, we uphold the district court's order certifying that the appeal presents no nonfrivolous issue. Allen's request for IFP status is DENIED, and his appeal is DISMISSED as frivolous. See Baugh, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.

IFP DENIED; APPEAL DISMISSED.