

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-51119  
Conference Calendar

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KEITH RUSSELL JUDD,

Plaintiff-Appellant,

versus

U.S. DISTRICT COURT; L. STUART PLATT,  
U.S. MAGISTRATE; W. ROYAL FURGESON, JR.,  
U.S. District Judge,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. MO-98-CV-167  
- - - - -

April 16, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Keith Russell Judd, federal prisoner # 11593-051, requests this court's permission to appeal in forma pauperis (IFP) from an order transferring the case, by consent, from the docket of District Judge Royal Furgeson to the docket of Senior District Judge Lucius D. Bunton. Judd also asks this court to grant him immediate release from custody, an expedited appeal, and oral argument.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

"If upon the hearing of any interlocutory motion . . . it shall appear to the Court that the appeal is frivolous and entirely without merit, the appeal will be dismissed." 5TH CIR. R. 42.2.

Judd's appeal is frivolous and, thus, subject to dismissal pursuant to Rule 42.2. Judd's motions to proceed IFP on appeal, for immediate release, an expedited appeal, and oral argument are DENIED, and the appeal is DISMISSED AS FRIVOLOUS. 5TH CIR. R. 42.2.

The dismissal of this appeal as frivolous counts as a strike for purposes of 28 U.S.C. § 1915(g). We note that at least one other appeal filed by Judd has been dismissed as frivolous by this court. Judd v. University of New Mexico, No. 97-50242 (5th Cir. Dec. 9, 1997). We caution Judd 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).

MOTIONS FOR IFP, IMMEDIATE RELEASE, EXPEDITED APPEAL, AND ORAL ARGUMENT DENIED; APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.