

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-10686
Conference Calendar

RACHEL LEE BROWN,

Plaintiff-Appellant,

versus

MOLLY FRANCIS, Honorable,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:99-CV-521-L

February 17, 2000

Before EMILIO M. GARZA, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Rachel Lee Brown, Texas prisoner # 511017, appeals the district court's dismissal of her 42 U.S.C. § 1983 action as frivolous pursuant to 28 U.S.C. § 1915A(b)(1) and (2) and 28 U.S.C. § 1915(e)(2)(B)(i) and (ii).

Judicial officers such as Judge Francis are entitled to absolute immunity from damage claims under § 1983 arising out of acts performed in the exercise of their judicial functions. Graves v. Hampton, 1 F.3d 315, 317 (5th Cir. 1993). Brown argues only that Judge Francis' actions were improper. Brown's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

arguments do not show that the district court abused its discretion in dismissing her action for damages against Judge Francis as frivolous. See Siglar v. Hightower, 112 F.3d 191, 193 (5th Cir. 1997). We hold that Brown's appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.

Brown is hereby informed that the dismissal of this appeal as frivolous counts as a strike for purposes of 28 U.S.C. § 1915(g), in addition to the strike for the district court's dismissal. See Adepegba v. Hammons, 103 F.3d 383, 387 (5th Cir. 1996) ("[D]ismissals as frivolous in the district courts or the court of appeals count [as strikes] for the purposes of [§ 1915(g)]"). We caution Brown that once she accumulates three strikes, she may not proceed IFP in any civil action or appeal filed while she is incarcerated or detained in any facility unless she is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED AS FRIVOLOUS.