

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-31026
Conference Calendar

CALVIN WALKER,

Plaintiff-Appellant,

versus

JEANIE E. LOUQUE,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 99-CV-618-B

April 12, 2000

Before WIENER, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Calvin Walker (#407257) has appealed the district court's order dismissing his civil rights complaint for failure to state a claim under the rule in Heck v. Humphrey, 512 U.S. 477, 487 (1994). See 28 U.S.C. § 1915(e)(2)(B)(ii). Walker's claims clearly call into question the legality of his conviction and are not cognizable under Heck.

Walker draws a sinister inference from the fact that United States District Judge Tyson, who ruled against him in this case, formerly sat on the Louisiana 19th Judicial District Court, which

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

was the state court in which he was convicted. A judicial ruling will support a claim of bias only if it reveals an opinion based on an extrajudicial source or demonstrates such a high degree of antagonism as to make fair judgment impossible. See Liteky v. United States, 510 U.S. 540, 555 (1994). Adverse rulings alone do not call into question a judge's impartiality. Id.

The appeal is frivolous and is DISMISSED. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2.

The three strikes provision of 28 U.S.C. § 1915(g) "prohibits a prisoner from proceeding IFP if he has had three actions or appeals dismissed for frivolousness, maliciousness, or failure to state a claim." Carson v. Johnson, 112 F.3d 818, 819 (5th Cir. 1997) (citing Adepegba v. Hammons, 103 F.3d 383, 385 (5th Cir. 1996)). Walker has accumulated two strikes in this case alone. We caution Walker 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).

APPEAL DISMISSED AS FRIVOLOUS.