

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40233
Conference Calendar

FREDERICK EUGENE LUQUETTE,

Plaintiff-Appellant,

versus

NOLAN J. LEBLANC, JR., Attorney at law,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:99-CV-58

October 19, 1999

Before JONES, SMITH, and STEWART, Circuit Judges.

PER CURIAM:*

Frederick Eugene Luquette, Texas prisoner # 607441, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint as frivolous under 28 U.S.C. § 1915(e)(2)(B)(ii). Luquette alleged in the district court that his attorney in his criminal case deceitfully obtained a confession from Luquette. On appeal, Luquette argues that his attorney conspired with the state prosecutor to obtain a confession.

Luquette's claims, if successful, would call into question

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the constitutionality of Luquette's guilty-plea conviction. Luquette has not secured an invalidation of that conviction, and Luquette's § 1983 claims are thus barred by Heck v. Humphrey, 512 U.S. 477, 486-87 (1994). Although the district court dismissed the § 1983 complaint on other grounds, the complaint lacked an arguable basis in law, and the district court did not abuse its discretion by dismissing the complaint as frivolous. See Siglar v. Hightower, 112 F.3d 191, 193 (5th Cir. 1997); Hanchey v. Energas Co., 925 F.2d 96, 97 (5th Cir. 1990).

Luquette's appeal lacks arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous,, it is DISMISSED. 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 caution Luquette that once he accumulates three strikes, he may not proceed in forma pauperis 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).

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.