

April 30, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50114
Summary Calendar

MICHAEL ERVIN TUCKER,

Plaintiff-Appellant,

versus

SAM KATZ; J. FERNANDO TREVINO;
MANUEL ALFARO, II; JEFFERSON MOORE,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-02-CV-941-EP

Before DAVIS, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Michael Ervin Tucker, Texas inmate #072321, moves for leave to proceed in forma pauperis ("IFP") in his appeal of the district court's dismissal of his 42 U.S.C. § 1983 action as frivolous. Tucker does not address the district court's reasons for its certification that the appeal is not taken in good faith. Tucker states in conclusional fashion that the district court ignored federal law, Supreme Court decisions, and acts of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Congress, that he filed a legally and factually sufficient complaint, and that he has effectively refuted any suggestion that the appeal is not taken in good faith. Tucker provides no statement or discussion of the issues he intends to raise on appeal, nor does he challenge the district court's dismissal of his complaint. Because Tucker does not provide any analysis of the district court's reasons for dismissing his complaint, he waives any appeal of it. United States v. Reyes, 300 F.3d 555, 558 n.2 (5th Cir. 2002).

Tucker has not shown that the district court erred in certifying that an appeal would not be taken in good faith. Accordingly, the motion for leave to proceed IFP is DENIED and his appeal is DISMISSED as frivolous. Baugh v. Taylor, 117 F.3d 197, 202 n.24 (5th Cir. 1997); 5TH CIR. R. 42.2.

The dismissal of this appeal and the district court's dismissal of Tucker's complaint as frivolous count as strikes under the Prison Litigation Reform Act. Adepegba v. Hammons, 103 F.3d 383, 387 (5th Cir. 1996). Tucker is WARNED that if he accumulates three "strikes" under 28 U.S.C. § 1915(g) he will not be able to 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. 28 U.S.C. § 1915(g).

IFP MOTION DENIED; APPEAL DISMISSED, SANCTION WARNING ISSUED.