

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 12, 2021

Lyle W. Cayce
Clerk

No. 20-20635
Summary Calendar

ANTHONY ORTIZ,

Plaintiff—Appellant,

versus

BRYAN COLLIER; OSCAR MENDOZA; LORIE DAVIS; ALISHA
CHILES; ERICA V. HOPKINS; WARDEN ROBERT D. HERRERA;
ASSISTANT WARDEN J. C. GONZALES; TOMMY YBARRA;
LAKISHA S. MURPHY; M. LEWANDOWSKI; BRITTNEY M.
TILLEV; A. CORRELL,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:20-CV-3266

Before SOUTHWICK, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:*

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-20635

Anthony Ortiz, Texas prisoner # 753367, appeals the district court's dismissal, pursuant to 28 U.S.C. § 1915(g), of his 42 U.S.C. § 1983 action. Ortiz asserts that his life and health were placed in imminent danger by the prison's failure to follow protocol for preventing the spread of COVID-19. For example, he alleges that two prison employees came into his cubicle without the proper personal protective equipment. Additionally, Ortiz asserts that prison officials mishandled or "manipulated" the grievance process, also placing his life in danger. Ortiz's speculative and conclusory allegations are insufficient to make the showing required to avoid application of the three strikes bar under § 1915(g). *See Banos v. O'Guin*, 144 F.3d 883, 884–85 (5th Cir. 1998).

We do not consider Ortiz's assertions, raised for the first time in this appeal via a motion for extraordinary relief, regarding the actions of a correctional officer on the day of and after the district court's dismissal of his original complaint; nor do we consider the prison's handling of his later grievance on the subject. *See Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999).

Ortiz is again reminded that, because he has accumulated at least three strikes under § 1915(g), he is barred from proceeding 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. *Banos*, 144 F.3d at 884. He is also warned that, regardless of the § 1915(g) bar, any frivolous, repetitive, or otherwise abusive filings that he files will invite the imposition of additional sanctions, which may include dismissal, monetary sanctions, or restrictions on his ability to file pleadings in this court or any court subject to this court's jurisdiction.

AFFIRMED; MOTION DENIED; REMINDED OF THREE STRIKES BAR; ADDITIONAL SANCTION WARNING ISSUED.