

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 2, 2021

Lyle W. Cayce
Clerk

No. 20-30561
Summary Calendar

KEVIN KAIGLER,

Plaintiff—Appellant,

versus

JAMES M. LEBLANC; DARRYL VANNOY; SHIRLEY COODY;
JOSEPH LAMARTIMIERE; BUTCH H. BROWNING; JIMMY GUIDRY,

Defendants—Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:18-CV-350

Before JONES, DUNCAN, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Kevin Kaigler, Louisiana prisoner # 5566932 , seeks leave to proceed in forma pauperis (IFP) on appeal from the district court’s dismissal of his 42 U.S.C. § 1983 civil rights complaint against various prison and state

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 20-30561

officials alleging he is being subjected to unsafe and unsanitary conditions of confinement, for failure to state a claim. By moving to proceed IFP, Kaigler is challenging the district court's certification that his appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry into Kaigler's good faith "is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous)." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citations omitted).

Kaigler challenges only the district court's conclusion that he failed to state that any of the defendants knew of the complained of conditions. He fails to address any of the other conclusions reached by the district court and, otherwise, makes only conclusional statements in support of his argument that the district court erred in dismissing his complaint. Thus, the appeal lacks arguable merit. *See Howard*, 707 F.2d at 220.

Accordingly, Kaigler's IFP motion is DENIED, and the appeal is DISMISSED as frivolous. *See 5TH CIR. R. 42.2; Baugh*, 117 F.3d at 202 n.24. The district court's dismissal of Kaigler's complaint and our dismissal of this appeal count as strikes under 28 U.S.C. § 1915(g). *See Coleman v. Tollefson*, 575 U.S. 532, 537 (2015). Kaigler is CAUTIONED that if he accumulates three strikes, he will not be allowed to proceed IFP in any civil action or appeal filed while he is detained or incarcerated in any facility unless he is under imminent danger of serious physical injury.