

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 3, 2022

Lyle W. Cayce
Clerk

No. 20-40583

MICHAEL GEOFFREY PETERS,

Plaintiff—Appellant,

versus

STATE OF TEXAS; TEXAS DEPARTMENT OF CRIMINAL JUSTICE;
SUSAN KING, *Mailroom Supervisor*; REGIONAL DIRECTOR LORIE
DAVIS; WARDEN AUDEREY ENGLAND; ANNALEAS
FRUSHAMERRITT,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:19-CV-424

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

PER CURIAM:*

Michael Geoffrey Peters, Texas prisoner # 2019190, filed a 42 U.S.C. § 1983 complaint that was dismissed without prejudice for failure to prosecute, failure to obey an order of the court, and failure to effect service

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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of process. Peters now moves for leave to proceed in forma pauperis (IFP) on appeal. In seeking authorization to proceed IFP in the present appeal, Peters argues that the 28 U.S.C. § 1915(g) three-strikes bar does not apply to actions asserting First Amendment violations.

Peters has not shown that the three strikes bar under § 1915(g) should not apply to his claims. *See Baños v. O'Guin*, 144 F.3d 883, 884-85 (5th Cir. 1998). Even if he could overcome the § 1915(g) bar, Peters has not shown a nonfrivolous issue challenging the dismissal without prejudice of his § 1983 action for failure to prosecute, failure to obey an order of the court, and failure to effect service of process. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982).

Peters's motion to rule on his IFP motion is DENIED AS UNNECESSARY. His motion for leave to proceed IFP on appeal is DENIED. For the same reasons, his appeal from the district court's dismissal without prejudice of his § 1983 complaint is frivolous and is DISMISSED. *See 5TH CIR. R. 42.2; Baugh v. Taylor*, 117 F.3d 197, 202 & n.24 (5th Cir. 1997).

Peters is WARNED that frivolous, repetitive, or otherwise abusive filings will invite the imposition of other sanctions, which may include dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction. *See Coghlan v. Starkey*, 852 F.2d 806, 817 n.21 (5th Cir. 1988).