

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 1, 2022

Lyle W. Cayce
Clerk

No. 22-50001
Summary Calendar

DONIS LEMOND DENBY,

Plaintiff—Appellant,

versus

FNU ARMSTRONG, *Warden TDCJ Hughes Unit*; FNU TOGO, *PA TDCJ Hughes Unit*; FNU DOE, *Provider #2 PA TDCJ Hughes Unit*; FNU DOE, *Mental Health Provider #1 TDCJ Hughes Unit*,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:21-CV-1300

Before SOUTHWICK, GRAVES, and COSTA, *Circuit Judges.*

PER CURIAM:*

Donis Lemond Denby, Texas prisoner # 655223, has filed a motion for authorization to proceed in forma pauperis (IFP) after the dismissal of his 42 U.S.C. § 1983 complaint under 28 U.S.C. § 1915(g). He has failed to show

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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that he should be permitted to proceed IFP on appeal under § 1915(g) or that his appeal of the district court's judgment presents a nonfrivolous issue. *See Banos v. O'Guin*, 144 F.3d 883, 885 (5th Cir. 1998); *Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). He did not adequately allege or sufficiently support his contention that he was under imminent danger of serious physical injury. *See Banos*, 144 F.3d at 885. The motion for leave to proceed IFP is denied.

The facts surrounding the IFP decision are inextricably intertwined with the merits of the appeal. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.24 (5th Cir. 1997). The appeal presents no nonfrivolous issues and is dismissed as frivolous. *See 5TH CIR. R. 42.2.*

We previously warned Denby about the three-strikes bar of § 1915(g) and cautioned him that he could be subject to additional sanctions if he filed future or repetitive filings. *See Denby v. Bosco*, 719 F. App'x 405, 406 (5th Cir. 2018); *Denby v. Bosco*, 710 F. App'x 205, 205 (5th Cir. 2018). Because Denby has not heeded those warnings, he is ordered to pay a sanction of \$100 to the clerk of court, and he is barred from filing any pleading in this court or any court subject to this court's jurisdiction until the sanction is paid in full, unless he obtains leave of the court in which he seeks to file such pleading. Denby is once again warned that the filing of repetitive or frivolous pleadings in this court or any court subject to this court's jurisdiction could result in additional sanctions. He is directed to review all pending matters and move to dismiss any that are frivolous, repetitive, or otherwise abusive.

MOTION DENIED; APPEAL DISMISSED AS FRIVOLOUS; SANCTION IMPOSED; SANCTION WARNING ISSUED.