

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-10523  
Conference Calendar

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TIM D. TINLIN,

Plaintiff-Appellant,

versus

PRESTON DeSHAZO, Attorney at Law; CARL ALLEN McNEILL,  
Attorney at Law; KAWASAKI MOTORS CORP., USA, Claims  
Administrator; WYNN WOODARD; SAMMY WHITES; RACE TECH CORP.;  
SAMMY WHITE'S KAWASAKI, INC.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:99-CV-1180-M  
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December 13, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:\*

Tim D. Tinlin, Texas prisoner #807702, moves for leave to proceed in forma pauperis (IFP), implicitly challenging the district court's certification that his appeal is taken in bad faith. He alleges that the district court listed only Texas residents in the order of dismissal, and he states without offering any details that there was diversity of citizenship. Because Tinlin named Texas residents among the defendants in his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

civil action, he has failed to show complete diversity. *Getty Oil Corp., a Div. of Texaco, Inc. v. Insurance Co. of N. America*, 841 F.2d 1254, 1258 (5th Cir. 1988).

Tinlin's appeal is without arguable merit and is frivolous. *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). Tinlin's IFP motion is denied, and the appeal is dismissed. The dismissal of Tinlin's appeal as frivolous counts as a "strike" for purposes of 28 U.S.C. § 1915(g). Once Tinlin accumulates three "strikes," he may not bring a civil action or appeal IFP unless he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Tinlin's motion to expedite his appeal is DENIED.

IFP DENIED; MOTION TO EXPEDITE DENIED; APPEAL DISMISSED.

5TH CIR. R. 42.2.