

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-10904
Conference Calendar

CHRISTOPHER WILBON,

Plaintiff-Appellant,

versus

GERALD CRITZ, Police Officer with Lubbock
Police Department, S. MORRIS, Police Officer with
Lubbock Police Department, ANDREW DOBBS, Police
Officer with Lubbock Police Department,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:99-CV-144-BG

April 10, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

Christopher Wilbon (#894065), a Texas state prisoner, has appealed the magistrate judge's order dismissing his civil rights complaint as frivolous and for failure to state a claim upon which relief can be granted. See 28 U.S.C. § 1915(e)(2)(B). Wilbon has failed to show that the magistrate judge erred or abused her discretion in applying the rule in Heck v. Humphrey, 512 U.S. 477, 486-87 (1994). See Berry v. Brady, 192 F.3d 504, 506 (5th Cir. 1999) (standard of review).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Because the appeal is frivolous, it is DISMISSED. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2. The dismissal of the instant appeal and the dismissal as frivolous or for failure to state a claim by the magistrate judge each count as a strike for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). We caution Wilbon that once he accumulates three strikes, he will not be permitted to proceed 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. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED.