

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-11063
Conference Calendar

JUAN MARTINEZ,

Plaintiff-Appellant,

versus

JOE H. NOEL; BRUCE HAY; STEVE L. PATTY,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 7:99-CV-54-AH

June 13, 2001

Before WIENER, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Juan Martinez, Texas prisoner # 536428, appeals the magistrate judge's dismissal without prejudice of his 42 U.S.C. § 1983 complaint as barred by Heck v. Humphrey, 512 U.S. 477, 481 (1994). Martinez argues that no named defendant is entitled to good faith immunity and that the judgment was very general. Martinez has failed to brief the relevant issue, as he has provided neither argument nor authorities to show that the magistrate judge erred in dismissing his suit. See Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993); Fed. R. App.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

P. 28(a)(9). Martinez' appeal is without arguable merit and is frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, this appeal is dismissed as frivolous. See 5th Cir. R. 42.2.

This dismissal of a frivolous appeal constitutes one "strike" against Martinez for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). Martinez is cautioned that if he accumulates three "strikes" under 28 U.S.C. § 1915(g), he will not be able 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; SANCTION WARNING ISSUED.