

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-31351
Conference Calendar

GARY POCHE,

Plaintiff-Appellant,

versus

STATE OF LOUISIANA; ORLEANS PARISH DISTRICT
ATTORNEY'S OFFICE; HARRY F. CONNICK,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 00-CV-1364-D

October 26, 2001

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Gary Poche, Louisiana inmate number 120409, appeals the district court's judgment dismissing his civil rights complaint as frivolous and for failure to state a claim. See 28 U.S.C. § 1915(e)(2)(B)(i) & (ii). Poche argues that he should have been provided with a free copy of his criminal records under the state public records law. This argument does not involve a constitutional question. "Under ordinary circumstances . . . an indigent does not have a federally-protected right to a free copy of his transcript or other court records merely to search for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

possible error in order to file a petition for collateral relief at some future date." Colbert v. Beto, 439 F.2d 1130, 1131 (5th Cir. 1971).

Although Poche mentions the denial-of-due-process and denial-of-access-to-the-courts claims he raised in the district court, Poche has not briefed either of those claims on appeal. Issues which are not briefed on appeal are waived. Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Poche also argues that District Attorney Connick is not immune from suit under the Eleventh Amendment. The district court did not consider whether District Attorney Connick is immune from suit in determining that Poche had failed to state a cognizable constitutional claim.

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 as frivolous and the dismissal of the complaint as frivolous and for failure to state a claim by the district court each count as a strike for purposes of 28 U.S.C. § 1915(g). Poche now has two strikes. See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). We caution Poche 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; SANCTION WARNING ISSUED.