

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-40401  
Summary Calendar

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THOMAS C. DAVIS, JR.,

Plaintiff-Appellant,

versus

WAYNE SCOTT, Director, Texas Department of  
Criminal Justice, Institutional Division;  
GARY L. JOHNSON, DIRECTOR, TEXAS DEPARTMENT  
OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION;  
THOMAS PRASIFKA, Senior Warden; W.A. HODGE,  
Assistant Warden; TROY SIMPSON, Assistant  
Warden; NORRIS D. JACKSON, Major,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-00-CV-19  
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November 29, 2000

Before EMILIO M. GARZA, STEWART and PARKER, Circuit Judges:

PER CURIAM:\*

The magistrate judge dismissed the 42 U.S.C. § 1983 complaint filed by Thomas C. Davis, Jr., Texas inmate #342624, for failure to prosecute because Davis is barred by 28 U.S.C. § 1915(g) (three-strikes bar), Davis did not establish that he was under imminent danger of serious physical injury, and Davis failed to comply with the magistrate judge's order to pay the filing fee. Davis requests leave to proceed *in forma pauperis* (IFP) on appeal, asserting that he is in imminent danger of serious physical injury because he is suffering from mental anguish and mental distress due to the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

defendants' violation of his constitutional rights. Davis' motions for appointment of counsel, production of documents, and for remand are DENIED.

Davis' allegations do not establish that he is under imminent danger of serious physical injury. *See Baños v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998). Accordingly, Davis' motion for leave to proceed IFP is DENIED.

Davis' appeal is DISMISSED. Should Davis wish to reinstate his appeal, he has 15 days from the date of this opinion to pay the full appellate filing fee of \$105 to the clerk of the district court.

**MOTIONS DENIED; APPEAL DISMISSED.**