

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-41139
Conference Calendar

FELIX AARON MILLER,

Plaintiff-Appellant,

versus

D. DEWBERRY, Captain, Beto I,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:00-CV-393

February 14, 2001

Before SMITH, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Felix Miller, Texas prisoner # 555749, appeals the district court's dismissal of his 2000 42 U.S.C. § 1983 complaint as frivolous. Miller argues that a prison official cut him with a razor in 1996, that the official verbally threatened Miller in 1998, and that the official sent threatening letters to Miller in 1999.

The 1996 incident is plainly barred by the two-year statute of limitations, and the district court did not abuse its discretion in dismissing Miller's remaining allegations as

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

frivolous. See 28 U.S.C. § 1915(e)(2)(B)(i) and (ii); see also Flores v. Cameron County, Tex., 92 F.3d 258, 271 (5th Cir. 1996); Bender v. Brumley, 1 F.3d 271, 274 n.4 (5th Cir. 1993). Miller's appeal lacks arguable merit, and the appeal is DISMISSED AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2.

Miller has more than three-strikes against him, and, after Miller sought in forma pauperis status for his current appeal, the three-strikes bar of 28 U.S.C. § 1915(g) was imposed against him in a previous appeal. See Miller v. Lloyd, No. 00-10625 (5th Cir. Oct. 17, 2000) (unpublished). We remind Miller that he cannot proceed in forma pauperis in the district court or on appeal except in cases in which he is under imminent danger of serious physical injury. See § 1915(g); Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996).

DISMISSED AS FRIVOLOUS.