

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-41317  
Conference Calendar

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JAMES LEONARD McCURRY,

Plaintiff-Appellant,

versus

DANYEL LAU, DR.; GARY L. JOHNSON,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:00-MC-32  
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April 12, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:\*

James Leonard McCurry, Texas prisoner #735421, appeals from an order denying him permission to file a complaint in the district court. McCurry is under a sanction issued by the District Court for the Southern District of Texas. We have reviewed the arguments raised by McCurry and the order of the district court. The district court did not abuse its discretion by honoring the sanctions order of the Southern District and denying McCurry permission to file his complaint. *See Balawajder v. Scott*, 160 F.3d 1066, 1068 (5th Cir. 1998).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

McCurry's appeal is frivolous. McCurry has had two actions dismissed by district courts as frivolous, *McCurry v. Velasquez*, No. 2:98-CV-0113 (N.D. Tex. May 18, 2000); *McCurry v. Velasquez*, No. G-98-99 (S.D. Tex. Sep. 8, 1999); the dismissal of this appeal counts as a third strike against McCurry for purposes of 28 U.S.C. § 1915(g). McCurry therefore may not proceed in forma pauperis in any civil action or appeal unless he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

APPEAL DISMISSED. 5TH CIR. R. 42.2. APPELLANT BARRED UNDER 28 U.S.C. § 1915(g).