

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-11464  
Conference Calendar

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JOSEPH H. STEWART, III,

Plaintiff-Appellant,

versus

JANIE COCKRELL, DIRECTOR, TEXAS  
DEPARTMENT OF CRIMINAL JUSTICE,  
INSTITUTIONAL DIVISION; FRANK HOKE,  
Program Administrator; NFN STEPHENS,  
Senior Warden; LORI WILLS, Assistant Warden,  
JOHN DOE #1, Step 2 Signature Authority,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 5:01-CV-279-C  
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June 18, 2002

Before HIGGINBOTHAM, DAVIS, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Joseph H. Stewart, III, Texas prisoner # 602302, appeals the denial of his motion for a preliminary injunction filed in connection with his 42 U.S.C. § 1983 civil rights lawsuit alleging a denial of access to the courts. He also seeks leave to proceed in forma pauperis ("IFP") on appeal. Because he is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

already being permitted to proceed IFP on appeal, his motion is DENIED as moot.

However, as Stewart apparently concedes, at the time he filed his notice of appeal, Stewart had acquired at least three strikes for purposes of 28 U.S.C. § 1915(g), meaning that he is barred from proceeding IFP in the present appeal unless he is "under imminent danger of serious physical injury." See 28 U.S.C. § 1915(g); see also Stewart v. State, No. 01-10772 (5th Cir. Oct. 17, 2001)(unpublished)(and cases cited therein). Therefore, his leave to proceed IFP on appeal, which the district court granted by order dated November 29, 2001, is DECERTIFIED. Stewart's appeal is DISMISSED. He may seek to reinstate his appeal by paying the full appellate filing fee of \$105 to the clerk of the district court within 15 days of the date of this opinion.

IFP DECERTIFIED; APPEAL DISMISSED; MOTION DENIED.