

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-11505
Conference Calendar

RICHARD GERMAN ROBINSON,

Plaintiff-Appellant,

versus

JOSEPH PRICE, Senior Warden; BOBBY STUBBLEFIELD, Captain of
Correctional Officer; THERESA HENDRICK, Disciplinary Officer;
CATHY BOEHNING, Substitute Counsel I; CLIFTON COOPER,
Correctional Officer IV; W. FOLLMER, Correctional Officer III,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:01-CV-237

June 18, 2002

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

PER CURIAM:*

Richard German Robinson, Texas prisoner number 819174,
appeals following the district court's dismissal of his 42 U.S.C.
§ 1983 complaint as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i).
The district court determined that Robinson failed to exhaust his
claims that the prison grievance program was inadequate.
Liberally construed, Robinson's appellate claims argue that he
was disciplined based upon false evidence, that he was

* 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that this opinion should not be published and is not precedent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.

disciplined in retaliation for having filed grievances, and that the prison grievance program was inadequate. However, he does not argue any error with the district court's dismissal of his claims for failing to exhaust.

The district court did not abuse its discretion for dismissing Robinson's claims as frivolous for filing a civil rights complaint without having first exhausted his claims as required under 42 U.S.C. § 1997e. See Underwood v. Wilson, 151 F.3d 292, 296 (5th Cir. 1998). Robinson's appeal lacks arguable merit and is therefore dismissed as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. The district court's dismissal of Robinson's complaint and the dismissal of his appeal as frivolous count as two strikes against him under 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 385 (5th Cir. 1996). Robinson has already received two strikes against him for filing a frivolous complaint and appeal. See Robinson v. Blount, No. 01-11340 (5th Cir. Feb. 19, 2002).

Robinson's instant appeal is DISMISSED AS FRIVOLOUS. Robinson may not proceed IFP in any civil action or appeal while he is incarcerated or detained in any facility unless he is in imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).