

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20901
Summary Calendar

HUGO P ABSALON,

Plaintiff-Appellant,

versus

US ATTORNEY GENERAL; US ATTORNEY,
Southern District of Texas, Mervyn M Mosbacker,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CV-999

June 26, 2002

Before DeMOSS, PARKER and DENNIS, Circuit Judges.

PER CURIAM:*

Hugo P. Absalon, federal prisoner #82491-079, proceeding pro se and in forma pauperis, appeals the district court's dismissal of his civil rights complaint against the United States attorney who handled his prosecution.

Absalon's motion for corrections to the district court docket sheet in United States v. Absalon, No. 1:98-CR-506 (S.D. Tex.) is DENIED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Absalon argues that his due process rights, as set forth in Brady v. Maryland, 373 U.S. 83 (1963), were violated when the prosecution withheld exculpatory evidence in connection with his criminal prosecution for transporting an alien within the United States and being a felon in possession of a firearm.

Absalon's damage claims are barred by the doctrine of absolute immunity. See Boyd v. Biggers, 31 F.3d 279, 283 (5th Cir. 1994). Additionally, Absalon's attempt to use a civil rights action to obtain discovery of evidence relating to his criminal prosecution is barred by principles set forth in Preiser v. Rodriguez, 411 U.S. 475, 499 (1973), and Heck v. Humphrey, 512 U.S. 477, 486-87 (1994). Therefore, Absalon's appeal lacks arguable merit and is thus dismissed as frivolous. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2.

This dismissal counts as a strike for purposes of 28 U.S.C. § 1915(g). See Adpegba v. Hammons, 103 F.3d 383, 385-87 (5th Cir. 1996). We caution Absalon that once he accumulates three strikes, he may not proceed in forma pauperis in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED; 28 U.S.C. § 1915(g) WARNING ISSUED; MOTION DENIED