

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-21101
Conference Calendar

JOHN NASKY OKONKWO,

Plaintiff-Appellant,

versus

IMMIGRATION AND NATURALIZATION SERVICE;
JOHN ASHCROFT, U.S. Attorney General;
JAMES BUCHANAN, U.S. Assistant Attorney;
JOHN DOE, #4, U.S. Immigration Officer,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CV-1853

April 11, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

John Nasky Okonkwo, federal prisoner #88548-079, moves for leave to proceed in forma pauperis (IFP) and for appointment of counsel following the district court's dismissal of his civil rights complaint as frivolous pursuant to 28 U.S.C.

§ 1915(e)(2)(B)(i).

Okonkwo's motion for appointment of counsel 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

By moving for IFP, Okonkwo challenges the district court's certification that IFP status should not be granted on appeal because his appeal is not taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997). Because Okonkwo's appeal presents no nonfrivolous appellate issues, his motion is DENIED, and the appeal is DISMISSED. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2. The district court's dismissal of the present case and our dismissal of this appeal count as two strikes against Okonkwo for purposes of 28 U.S.C. § 1915(g). We caution Okonkwo that once he accumulates three strikes, he may not proceed IFP 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).

IFP DENIED; APPEAL DISMISSED; THREE-STRIKES WARNING ISSUED.