

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40415
Summary Calendar

DAMON SIMS, Jr.,

Plaintiff-Appellant,

versus

SAMUEL KENT; UNIVERSITY OF TEXAS MEDICAL BRANCH GALVESTON;
N. WEBB, Warden; MELVIN WRIGHT; KENNETH LOVE; TATANYAN
CARRINGTON; HAROLD CLAYTON; JOHN BEACRAFT; GARY AXUM,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-01-CV-136

June 15, 2001

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

The district court dismissed this 42 U.S.C. § 1983 complaint filed by Damon Sims, Jr., Texas inmate number 641674. Sims is barred by from proceeding in forma pauperis (IFP) by 28 U.S.C. § 1915(g). The court noted that Sims had failed to pay the requisite filing fee and it held that Sims was not eligible to appeal IFP because he had not established that he was under imminent danger of serious physical injury. Sims requests leave to proceed IFP on appeal, asserting that he is in imminent danger

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

of serious physical injury because he has been denied a hernia operation and provided with inappropriate medication for a skin condition. He has also been housed in a unit where pepper spray is sometimes used, which exacerbates the problem with his hernia. Sims alleged that District Judge Kent dismissed a prior lawsuit in which Sims raised the same allegations.

Sims' motions for an appeal conference, discovery, disclosure, appointment of counsel, protection of medical records, and injunctive relief are DENIED. As Sims' allegations do not establish that he is in imminent danger of serious physical injury, his motion for leave to proceed IFP is DENIED, also. See Baños v. O'Guin, 144 F.3d 883, 884 (5th Cir. 1998). The appeal is DISMISSED. Should Sims wish to reinstate his appeal, he has until June 18, 2001, to pay the full appellate filing fee of \$105 to the clerk of the district court.

MOTIONS DENIED; APPEAL DISMISSED.