

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-60118
Conference Calendar

JOHNNY O'BRYANT, JR.,

Plaintiff-Appellant,

versus

THOMAS G. TAYLOR, Warden at Bolivar County Regional
Correctional Facility; ELMORE SELLERS, Deputy Warden at
Bolivar County Regional Correctional Facility; CAROL BOONE,
Classification and Offender Service, Bolivar County Regional
Correctional Facility; KAREN TANNER, Official Court Reporter,
11th Circuit District Court; AELICIA THOMAS, Attorney,
MSB # 10792; KENNETH L. THOMAS, Attorney,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 2:00-CV-259-D-B

June 13, 2001

Before WIENER, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Johnny O'Bryant, Jr., Mississippi prisoner # 41117, appeals, pro se, the dismissal of his 42 U.S.C. § 1983 complaint for failure to state a claim. O'Bryant's motion for appointment of counsel is denied.

O'Bryant seeks damages, claiming the defendants violated his rights, resulting in his false imprisonment. As O'Bryant has not

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

shown that either his conviction, his sentence, or his probation revocation has been overturned, expunged, or otherwise invalidated, the district court properly dismissed his complaint as barred by Heck v. Humphrey, 512 U.S. 477, 486-87. See also Jackson v. Vannoy, 49 F.3d 175, 177 (5th Cir. 1995) (Heck applied to a probation revocation proceeding). The judgment of the district court is affirmed.

The district court's dismissal of O'Bryant's complaint as frivolous counts as a "strike" under 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). O'Bryant is cautioned that if he accumulates three "strikes" under 28 U.S.C. § 1915(g), he will not be able to 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).

JUDGMENT AFFIRMED. MOTION DENIED. SANCTION WARNING ISSUED.