

July 28, 2003

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 03-10189
Summary Calendar

MICHAEL WAYNE SCOTT,

Plaintiff-Appellant,

versus

TEXAS DEPARTMENT OF CRIMINAL JUSTICE, Clements Unit
Amarillo Texas; JOSEPH K. PRICE, Warden Clements Unit;
HERMAN WESTON, JR., Assistant Warden Clements Unit;
FRANK D. POHLMEIER, Major Clements Unit,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:02-CV-281

Before HIGGINBOTHAM, DAVIS and PRADO, Circuit Judges.

PER CURIAM:*

Michael Wayne Scott, Texas prisoner # 683064, seeks to appeal in forma pauperis (IFP) the dismissal of his civil rights complaint under the "three strikes" provision of 28 U.S.C. § 1915(g). Scott does not challenge the district court's determination that, on at least three prior occasions while incarcerated, he has brought an action or appeal in a United

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

States court that has been dismissed as frivolous and/or for failure to state a claim. Instead, he argues that he falls within the "imminent danger" exception of 28 U.S.C. § 1915(g).

A review of the record and Scott's appellate brief reveals that he has failed to establish that he was "under imminent danger of serious physical injury" at the time that he filed his notice of appeal IFP. See 28 U.S.C. § 1915(g); Baños v. O'Guin, 144 F.3d 883, 885 (5th Cir. 1998). Accordingly, his IFP status is decertified, all outstanding motions are denied, and his appeal is dismissed. See id. Should Scott wish to reinstate his appeal, he has 30 days from the date of this opinion to pay the full appellate filing fee to the clerk of the district court. See id.

IFP DECERTIFIED. ALL OUTSTANDING MOTIONS DENIED. APPEAL DISMISSED.