

August 19, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-30254
Conference Calendar

LARRY DINELL DAVIS,

Plaintiff-Appellant,

versus

C.M. LENSING; ELAYN HUNT CORRECTIONAL CENTER,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 03-CV-47-D-M1

Before JONES, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Larry Dinell Davis, Louisiana prisoner No. 260148, appeals the district court's dismissal of his civil rights complaint as frivolous. The district court determined that Davis's claims are barred by the Eleventh Amendment and that Louisiana law offers Davis an adequate post-deprivation remedy for his claims of unpaid wages and lost or destroyed property. We find no error in the district court's determination.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Davis's appeal is thus without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5TH CIR. R. 42.2.

The dismissal of this appeal and the dismissal as frivolous by the district court each count as a "strike" for purposes of 28 U.S.C. § 1915(g). Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). Davis, therefore, has two "strikes" under 28 U.S.C. § 1915(g). We caution Davis 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; SANCTIONS WARNING ISSUED.