

FILED

August 18, 2004

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 04-10369
Conference Calendar

JAMES EARL HOPKINS, JR.,

Plaintiff-Appellant,

versus

EASON, Warden; NFN JIMENEZ; NFN HANSZ,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:03-CV-230-C

Before HIGGINBOTHAM, DAVIS, and PICKERING, Circuit Judges.

PER CURIAM:*

James Earl Hopkins, Jr., Texas prisoner #1031879, appeals from the dismissal of his 42 U.S.C. § 1983 action for lack of jurisdiction. The district court lacked jurisdiction to reopen Hopkins's previous 42 U.S.C. § 1983 action which was dismissed by another district court. See Bankers Mortgage Co. v. United States, 423 F.2d 73, 78 (5th Cir. 1970).

Hopkins's appeal is without arguable merit and is frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Hopkins is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

warned that the dismissal of his appeal counts as a "strike" for purposes of 28 U.S.C. § 1915(g) and that once he accumulates three "strikes" he will be barred from proceeding 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." 28 U.S.C. § 1915(g).

APPEAL DISMISSED. 5TH CIR. R. 42.2. SANCTIONS WARNING ISSUED.