

November 8, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-10879
Summary Calendar

BURNS TILTON BOYD,

Plaintiff-Appellant,

versus

GARY WINTERS, Officer; NFN HOLLIGAN, Officer;
W.E. WALKER, Warden,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:04-CV-106

Before DAVIS, SMITH and DENNIS, Circuit Judges.

PER CURIAM:*

Burns Tilton Boyd, Texas prisoner # 1153136, seeks leave to proceed in forma pauperis ("IFP") on appeal following the district court's denial of IFP and dismissal of his complaint because he is barred by the "three strikes" provision of 28 U.S.C. § 1915(g). Boyd alleges that he faces an imminent threat of serious physical injury because a fellow inmate assaulted him and the defendants are deliberately indifferent. Prison

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

grievances submitted by Boyd show, however, that the inmate in question is no longer being housed in the same building as Boyd.

Boyd fails to meet the showing required to avoid application of the "three strikes" bar under 28 U.S.C. § 1915(g). See Banos v. O'Guin, 144 F.3d 883, 884-85 (5th Cir. 1998). His motion to proceed IFP is DENIED. Because the district court properly applied 28 U.S.C. § 1915(g), Boyd's appeal is without merit and is DISMISSED. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

IFP MOTION DENIED; APPEAL DISMISSED.