

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

June 19, 2008

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No. 07-20845  
Conference Calendar

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Charles R. Fulbruge III  
Clerk

RICHARD H BAGGETT

Plaintiff-Appellant

v.

UNITED STATES CONGRESS

Defendant-Appellee

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:07-CV-2478

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Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:\*

Richard H. Baggett, Texas prisoner # 507596, appeals the dismissal of his Bivens<sup>1</sup> suit as frivolous pursuant to 28 U.S.C. § 1915A(b)(1). The district court held that Baggett's claims were barred by the doctrine of legislative immunity and, alternatively, Heck v. Humphrey, 512 U.S. 477 (1994).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

<sup>1</sup> Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971).

Baggett has failed to assign error to or brief these issues. His failure to brief the dispositive issues has waived their review. See *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). Baggett has instead moved for appointment of counsel, consolidation of the instant case with a habeas action, supplementation of the record, and transcripts at the government's expense. This court has previously denied Baggett the appointment of counsel in this case. *Baggett v. United States Congress*, No. 07-20845 (5th Cir. Feb. 1, 2008) (unpublished). Given that he has not shown that his appeal has arguable merit, all of Baggett's outstanding motions are denied.

Because Baggett's appeal is without arguable merit, it is frivolous. See *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, it is dismissed. See 5TH CIR. R. 42.2. The district court's dismissal of his complaint and this court's dismissal of his appeal both count as strikes for purposes of 28 U.S.C. § 1915(g). See *Adepegba v. Hammons*, 103 F.3d 383, 387 (5th Cir. 1996). Baggett is cautioned that if he accumulates three strikes, he will no longer be allowed to proceed in forma pauperis in any civil action or appeal filed while he is detained or incarcerated in any facility unless he is under imminent danger of serious physical injury. See § 1915(g).

APPEAL DISMISSED; ALL OUTSTANDING MOTIONS DENIED;  
SANCTION WARNING ISSUED.