

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-21034
Conference Calendar

LUIS SANTOS LAGAITE, JR.,

Plaintiff-Appellant,

versus

BARBARA HALE; AMBER RIVES,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-97-CV-2377
- - - - -

October 22, 1998

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges.

PER CURIAM:*

Luis Santos Lagaite, Texas prisoner # 762508, has filed an application for leave to proceed in forma pauperis (IFP) on appeal, following the district court's certification that an appeal would be frivolous. By moving for IFP, Lagaite is challenging the district court's certification that IFP status should not be granted on appeal because his appeal is not taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997). Because Lagaite has not demonstrated that he will raise a nonfrivolous issue on appeal, his motion to proceed IFP 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

DENIED. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983).

Because the appeal is frivolous, it is DISMISSED. 5TH CIR.

R. 42.2; Baugh v. Taylor, 117 F.3d 197, 202 n.24 (5th Cir. 1997).

Lagaite is cautioned that the dismissal of his complaint as frivolous by the district court, and the dismissal of his appeal as frivolous, each constitute a "strike" under the "three-strike" provision of 28 U.S.C. § 1915(g).

IFP MOTION DENIED; APPEAL DISMISSED.