

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20978
Conference Calendar

STEVEN E. DANIEL,

Plaintiff-Appellant,

versus

JOHN E. SCHEINER; DALE A. WATKINS;
TRACY D. PUCKETT; JOHN C. POGUE; RANDY HEALY;
DERICK VAN BUREN; MELISSA FRANKS; ROD K. MCCOY;
MICHAEL BUTCHER; MARK BISCAMP; KIMBERLY A.
SAUNDERS; PATSY PIPKIN,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-99-CV-1601
- - - - -

December 16, 1999

Before JOLLY, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant Steven E. Daniel, Texas prisoner #450142, seeks leave to proceed in forma pauperis (IFP), following the district court's certification that his appeal from the dismissal of his civil-rights complaint was taken in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

bad faith.

Daniel's motion for appointment of counsel is DENIED.

Daniel cannot show that the district court abused its discretion when it dismissed his complaint, without prejudice, for failure to comply with court orders. See Fed. R. Civ. P. 41(b); Larson v. Scott, 157 F.3d 1030, 1032 (5th Cir. 1998).

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

Accordingly, Daniel's IFP motion is DENIED and the appeal is DISMISSED. 5TH CIR. R. 42.2. Our dismissal of this appeal counts as a strike against Daniel for purposes of 28 U.S.C. § 1915(g). We caution Daniel that once he accumulates three strikes, he may not proceed IFP 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).

IFP DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.