

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40404
Summary Calendar

WILLIAM STEED KELLEY; ET AL.,

Plaintiffs,

WILLIAM STEED KELLEY,

Plaintiff-Appellant,

versus

GARY L. JOHNSON, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-98-CV-533
- - - - -

July 20, 1999

Before EMILIO M. GARZA, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

William Steed Kelley, Texas state prisoner #457296, seeks leave to appeal in forma pauperis (IFP) from the district court's dismissal of his "Motion to perpetuate testimony" pursuant to Fed. R. Civ. P. 27. Kelley's motion for leave to appeal IFP is DENIED. Kelley concedes that on at least three prior occasions while incarcerated, he has brought an action in a United States

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court that was dismissed as frivolous. Accordingly, Kelley may not proceed IFP in any civil action or appeal filed while he is in prison unless he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g); Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1997). Kelley's allegations in this case do not qualify.

This appeal is DISMISSED. Kelley has 15 days from the date of this opinion to pay the full appellate filing fee of \$105 to the clerk of the district court, should he wish to reinstate his appeal.

All other outstanding motions are also DENIED.

MOTIONS DENIED; 28 U.S.C. § 1915(g) BAR APPLIED; APPEAL DISMISSED.