

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-41369
Conference Calendar

TONY ROGERS,

Plaintiff-Appellant,

versus

ALLEN PINCHBACK; INYANG E. WILSON; KEVIN WESEMAN,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-99-CV-374

April 12, 2000

Before WIENER, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Tony Rogers, Texas prisoner #727683, appeals from the dismissal of his civil rights action as frivolous. He contends that the medical care he received violated the Eighth Amendment.

Rogers made no nonfrivolous allegations of deliberate indifference to his serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). Rogers's appeal is without arguable merit and is frivolous. *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). The district court's dismissal of Rogers's complaint and this court's dismissal of the appeal as frivolous

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

count as two "strikes" for purposes of 28 U.S.C. § 1915(g). See *Adepegba v. Hammons*, 103 F.3d 383, 385-87 (5th Cir. 1996).

Rogers is CAUTIONED that if he accumulates three "strikes" under § 1915(g), he will not be able to proceed in forma pauperis (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 § 1915(g).

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.