

December 12, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-41580  
Conference Calendar

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JIMMY LEE ROBINSON,

Plaintiff-Appellant,

versus

OFFICER FNU ROBLEDO,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:05-CV-280  
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Before KING, WIENER, and OWEN, Circuit Judges.

PER CURIAM:\*

Jimmy Lee Robinson, a former Hutchins State Jail inmate and now Texas prisoner # 1129105, appeals from the dismissal of his 42 U.S.C. § 1983 complaint as frivolous and for failure to state a claim. He argues that the dismissal was erroneous because his complaint alleged a deprivation of property claim under the Due Process Clause.

Affording the dismissal de novo review, Geiger v. Jowers, 404 F.3d 371, 373 (2005), we hold that Robinson is prevented by

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the Parratt-Hudson\*\* doctrine from pursuing a confiscation of property claim in federal court because Texas has adequate post-deprivation remedies for the confiscation of prisoner property. See Thompson v. Steele, 709 F.2d 381, 383 (5th Cir. 1983). Robinson's complaint was therefore frivolous and failed to state a claim. See Neitzke v. Williams, 490 U.S. 319, 327-29 (1989); Harris v. Hegmann, 198 F.3d 153, 156 (5th Cir. 1999).

Robinson's appeal lacks arguable merit and therefore is dismissed as frivolous. See 5TH CIR. R. 42.2; Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). The district court's dismissal of the § 1983 claim and our dismissal of this appeal count as two strikes for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). Robinson is cautioned that if he accumulates three strikes under § 1915(g), he will not be able to proceed in forma pauperis 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; SANCTION WARNING ISSUED.

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\*\* See Parratt v. Taylor, 451 U.S. 527, 541-44 (1981); Hudson v. Palmer, 468 U.S. 517, 533 (1984).