

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-20003
Conference Calendar

JAMES ELLIS, JR.,

Plaintiff-Appellant,

versus

M. LYLES, Warden; GATTIS, Sergeant, STEVE PASOWICZ,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-94-CV-3104
- - - - -

October 22, 1998

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

PER CURIAM:*

James Ellis, Jr., Texas prisoner #661137, appeals from the grant of summary judgment for defendant Steve Pasowicz in Ellis's civil rights action. Ellis contends that the use of force against him on April 27, 1994, violated the Eighth Amendment. We have reviewed the record and the briefs of the parties and we find no nonfrivolous appellate issues. Accordingly, we dismiss Ellis's appeal for essentially the reasons relied upon by the district court when it granted Pasowicz's summary-judgment motion. *Ellis v. Lyles*, No. H-94-3104 (S.D. Tex. Dec. 8, 1997).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We imposed 28 U.S.C. § 1915(g) sanctions on Ellis on August 20, 1998. *Ellis v. Thaler*, No. 97-20526 (5th Cir. Aug. 20, 1998)(unpublished). Because Ellis filed his notice of appeal and was granted leave to proceed *in forma pauperis* (IFP) before August 20, we do not apply § 1915(g) to the instant case. We remind Ellis that he may not bring a civil action or appeal as a prisoner proceeding IFP unless he is under imminent danger of serious physical injury. § 1915(g).

APPEAL DISMISSED. 5TH CIR. R. 42.2.