

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40429
Conference Calendar

SIDNEY ANDRE MCDONALD, Individually
and on behalf of all others situated in
the Texas Department of Criminal Justice -
Institutional Division,

Plaintiff-Appellant,

versus

WAYNE SCOTT, Executive Director,
Texas Department of Criminal Justice -
Institutional Division;
TIMOTHY WEST, Warden, Stiles Unit;
GEORGE E. BELL, Chaplain, Stiles Unit,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:97-CV-333
- - - - -

April 19, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:*

Sidney Andre McDonald, Texas inmate # 646724, challenges the denial of his motion for a temporary restraining order (TRO) filed in his civil rights suit. The denial of a TRO is not appealable. In re Lieb, 915 F.2d 180, 183 (5th Cir. 1990).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

McDonald's appeal is without arguable merit and is frivolous. Accordingly, the appeal is DISMISSED. 5TH CIR. R. 42.2. The dismissal of this appeal as frivolous counts as a strike for purposes of 28 U.S.C. § 1915(g). We caution McDonald 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).

APPEAL DISMISSED; WARNING ISSUED.