

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40993
Conference Calendar

EDDIE WAYNE MORRISON,

Plaintiff-Appellant,

versus

KENNETH D. HENRY ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-96-CV-93

April 16, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:*

Eddie Wayne Morrison, Texas inmate #333734, seeks to proceed in forma pauperis (IFP) on appeal from a judgment for the defendants following a jury trial on his civil rights complaint. By moving for IFP, Morrison is challenging the magistrate judge's certification decision that IFP status should not be granted on appeal because his appeal is not taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997). Morrison, however, fails to present any argument addressing the certification

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

decision. See Brinkmann v. Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Because Morrison fails to show that he will raise a nonfrivolous issue on appeal, his motion to proceed IFP is DENIED. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983). Because the appeal is frivolous, it 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 Morrison 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).

IFP DENIED; APPEAL DISMISSED; WARNING ISSUED.