

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20885
Conference Calendar

TERRY EARL COLLINS,

Plaintiff-Appellant,

versus

L. HARPER, Judge,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-98-CV-1968

April 11, 2000

Before WIENER, DeMOSS, and PARKER, Circuit Judges

PER CURIAM:*

Terry Collins, Texas prisoner # 644257, appeals the dismissal of his civil rights action filed pursuant to 42 U.S.C. § 1983. On appeal, he presents a host of alleged constitutional violations which render his convictions and sentences invalid. He also requests that counsel be appointed to represent him in this appeal.

Collins has not briefed the one issue presented for appeal: whether his § 1983 action is barred by Heck v. Humphrey, 512 U.S. 477 (1994). Accordingly, he has waived this issue. See Gann v.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Fruehauf Corp., 52 F.3d 1320, 1328 (5th Cir. 1995). This appeal is, therefore, frivolous and is DISMISSED as such. See 5th Cir. R. 42.2; see also Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Collins's request for the appointment of counsel is also DENIED.

Collins is informed that the dismissal of this appeal as frivolous constitutes a "strike" under the "three-strike" provision of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). To avoid another "strike," Collins ought to review any pending suits and appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; REQUEST FOR APPOINTMENT OF COUNSEL
DENIED; SANCTIONS WARNING ISSUED