

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-41400  
Conference Calendar

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LARRY EDWARD HUDDLESTON,

Plaintiff-Appellant,

versus

GAIL FALCO, Assistant District  
Attorney for Collin County;  
CHARLES PALMER, Assistant  
Attorney General for the State  
of Texas; GARY L. JOHNSON,  
DIRECTOR, TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE, INSTITUTIONAL  
DIVISION,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:99-CV-174  
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June 16, 2000

Before JOLLY, DAVIS, and DUHÉ, Circuit Judges.

PER CURIAM:\*

Larry Edward Huddleston, prisoner number 04147-010, appeals the district court's dismissal of his 42 U.S.C. § 1983 action as frivolous. The district court determined that the suit lacked any arguable basis in law, as the defendants were entitled to immunity. Huddleston has failed to brief this issue. See Yohey

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

v. Collins, 985 F.2d 222, 225 (5th Cir. 1993); Fed. R. App. P. 28(a)(9). This appeal should thus be dismissed as frivolous. Because the appeal is dismissed for failure to brief, Huddleston's motion to expand the record is denied.

This dismissal of a frivolous appeal following the district court's dismissal of the lawsuit as frivolous constitutes two strikes against Huddleston for purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). If one other district court action or appeal filed by Huddleston is dismissed as frivolous, he will be barred from bringing a civil action or appeal as a prisoner proceeding *in forma pauperis* unless he is under imminent danger of serious physical injury. See § 1915(g).

APPEAL DISMISSED AS FRIVOLOUS. 5TH CIR. R. 42.2. MOTION TO EXPAND THE RECORD DENIED. SANCTIONS WARNING ISSUED.