

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-51120
Summary Calendar

ERANSOM MILLER, JR.,

Plaintiff-Appellant,

versus

GARY L. JOHNSON, DIRECTOR, TEXAS
DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION, VERONICA BALLARD,
DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE -
PAROLE DIVISION; JOHN H. CLAYMON,
ASSISTANT DIRECTOR, TEXAS DEPARTMENT CRIMINAL
JUSTICE - PAROLE DIVISION; ROY EASON, UNIT PAROLE
OFFICER,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. A-99-CV-689-JN

May 10, 2000

Before HIGGINBOTHAM, DeMOSS and STEWART, Circuit Judges:

PER CURIAM:*

Eransom Miller, Jr., Texas prisoner #688067, appeals the district court's dismissal of his 42 U.S.C. § 1983 action as frivolous. On February 10, 2000, this court affirmed the dismissal of another § 1983 action filed by Miller in which he asserted the same claim that he was denied timely parole review. Miller v. Johnson, No. 99-50630 (5th Cir. Feb. 10, 2000). This suit is therefore duplicative and the district court's dismissal of the complaint as frivolous was not error. See Pittman v. Moore,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

980 F.2d 994, 994 (5th Cir. 1993); 28 U.S.C. § 1915(e)(2)(B)(i). The complaint also lacks an arguable basis in law. See Johnson v. Rodriguez, 110 F.3d 299, 308 (5th Cir. 1997). T h i s appeal is without arguable merit and therefore frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, it is hereby DISMISSED. See 5TH CIR. R. 42.2. Miller is warned that any additional frivolous appeals filed by him or on his behalf will invite sanctions by this court. He is further warned that the district court's dismissal of the present case and this court's dismissal of his appeal count as two "strikes" against him for purposes of 28 U.S.C. § 1915(g). If Miller accumulates another strike, for a total of three strikes under the statute, he will not be allowed to 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. § 1915(g).

Miller's motion to file a supplemental brief is hereby DENIED.

APPEAL DISMISSED AS FRIVOLOUS; MOTION DENIED; SANCTION WARNING ISSUED.