

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 11, 2011

Lyle W. Cayce
Clerk

No. 10-10629
Summary Calendar

ROBERTO PEREZ, JR.,

Plaintiff-Appellant

v.

EDDIE C. WILLIAMS; TOMMY L. NORWOOD; FRANKIE L. HAYNES;
ALVARO CHACON; JANE DOE; CLEOFE PALMA; DAVID JOHNSON,

Defendants-Appellees

Appeals from the United States District Court
for the Northern District of Texas
USDC No. 7:08-CV-30

Before JOLLY, GARZA, and STEWART, Circuit Judges.

PER CURIAM:*

Roberto Perez, Jr., Texas prisoner # 1189927, moves this court to proceed in forma pauperis (IFP) in this appeal from the district court's dismissal of his 42 U.S.C. § 1983 complaint as frivolous. Perez's IFP motion is a challenge to the district court's certification that his appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Perez argues that he was denied his right of access to courts and was prejudiced by the denial of access to legal materials and supplies in the prison law library. He contends that the defendants denied him access to legal materials and supplies as retaliation for filing a grievance. Perez also argues that he was denied his right to the free exercise of religion because a prison policy prevents him from carrying his bible or any item other than his identification card on the recreation yard.

Perez has not shown that he will present a nonfrivolous issue on appeal. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Accordingly, the motion for leave to proceed IFP is denied and the appeal is dismissed as frivolous. *See Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2. The district court's dismissal of his complaint as frivolous and the dismissal of this appeal as frivolous count as two strikes under 28 U.S.C. § 1915(g). Perez is cautioned that if he accumulates three strikes under § 1915(g), he will not be able 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. *See* § 1915(g).

IFP MOTION DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.