

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

\_\_\_\_\_  
No. 14-40401  
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United States Court of Appeals  
Fifth Circuit  
**FILED**  
April 14, 2015  
Lyle W. Cayce  
Clerk

VERNON KING, JR.,

Plaintiff-Appellant

v.

INDRIA N. RICE, Officer; KYLE D. HERRINGTON, Officer; UP TAYLOR,  
Officer,

Defendants-Appellees

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Appeals from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:12-CV-612  
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Before PRADO, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:\*

Vernon King, Jr., Texas prisoner # 590316, moves this court for authorization to proceed in forma pauperis (IFP) following the district court's dismissal of his 42 U.S.C. § 1983 complaint. Under 28 U.S.C. § 1915(g), a prisoner may not proceed IFP in a civil action or in an appeal of a judgment in a civil action if the prisoner has, on three or more prior occasions, while incarcerated, brought an action or appeal that was dismissed as frivolous or

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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for failure to state a claim, unless the prisoner is under imminent danger of serious physical injury. *Banos v. O'Guin*, 144 F.3d 883, 885 (5th Cir. 1998). King has failed to show that he should be allowed to proceed IFP on appeal under § 1915(g) or that his appeal of the district court's judgment presents a nonfrivolous issue. *See Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). King's motion for leave to proceed IFP is denied.

The facts surrounding the IFP decision are inextricably intertwined with the merits of the appeal. *See, e.g., Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). The appeal of the judgment of the district court presents no nonfrivolous issues, and the appeal is dismissed as frivolous. 5TH CIR. R. 42.2.

**IFP DENIED; APPEAL DISMISSED.**