

September 27, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-30882
Summary Calendar

JERRY LEVON SYLVE, JR.,

Plaintiff-Appellant,

versus

ST. TAMMANY PARISH; WALTER REED, District Attorney; DAVID
WEILBAUCHER, Deputy District Attorney; UNIDENTIFIED PARTIES,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:05-CV-116

Before REAVLEY, GARZA AND BENAVIDES, Circuit Judges.

PER CURIAM:*

Jerry Levon Sylve, Jr., California prisoner # V16892, appeals the dismissal of his 42 U.S.C. § 1983 complaint. The district court held in pertinent part that Sylve's claims were barred by the statute of limitations. Sylve has failed to brief this issue and therefore has waived its review. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993); Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). Sylve has shown no error in the district court's denial

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

of his motions for injunctive relief and for service of subpoena duces tecum.

Sylve's appeal is without arguable merit and is therefore dismissed as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2. The dismissal of his appeal as frivolous and the district court's dismissal of his complaint as frivolous and for failure to state a claim constitute two strikes for the purposes of 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). Sylve is cautioned that if he obtains three strikes, he will not be able to proceed in forma pauperis 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).

APPEAL DISMISSED; SANCTION WARNING ISSUED.