

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

United States Court of Appeals
Fifth Circuit

F I L E D

October 20, 2009

No. 08-61120
Conference Calendar

Charles R. Fulbruge III
Clerk

JODY HALL,

Plaintiff-Appellant

v.

MISSISSIPPI BAND OF CHOCTAW INDIANS JUSTICE COMPLEX; TERRY PALMER, Jailer or Sheriff,

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 1:08-CV-152

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Jody Hall, Mississippi prisoner # L3845, moves for permission to proceed in forma pauperis (IFP) to appeal the dismissal of his 42 U.S.C. § 1983 complaint for failure to state a claim. The district court denied Hall leave to proceed IFP on appeal, certifying that the appeal was not taken in good faith for the reasons set forth in the magistrate judge's report and recommendation. Hall has failed to adequately brief the issues raised in the district court's certification decision.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

He therefore has not shown that the district court's determination that his appeal would be frivolous was incorrect. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Consequently, his request for IFP is denied, and his appeal is dismissed as frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.24 (5th Cir. 1997); 5TH CIR. R. 42.2.

The district court's dismissal and the dismissal of this appeal count as two strikes under 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 388 (5th Cir. 1996). Hall is cautioned that, if he accumulates three strikes, 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 DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.