

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

United States Court of Appeals
Fifth Circuit

FILED

August 11, 2010

Lyle W. Cayce
Clerk

No. 10-10128

Summary Calendar

STEVE LOUIS OUDEMS,

Plaintiff - Appellant

v.

PATSY BELL; DIANA BOZEMAN; FRANK HOKE,

Defendants - Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:09-CV-298

Before DAVIS, SMITH, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Steve Louis Oudems, Texas prisoner # 1070555, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint as frivolous. Oudems, proceeding pro se and inform a pauperis (IFP), alleges that the prison library staff and officials at the Tulia Unit of the Texas Department of Criminal Justice denied him access to the courts. Specifically, he asserts that the law library at the Tulia Unit lacked the legal materials necessary for him to prepare a motion for authorization to file a second or successive habeas application in this court. He

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

also alleges that his motion and documents, including correspondence from this court regarding the filing of his motion, were “lost in the mail.” The district court determined that Oudems was unable to show any actual injury in connection with his claims and dismissed Oudems’ complaint with prejudice as frivolous.

Although Oudems argues generally that his right to access the courts and right to due process were violated, he does not specify any claims that he would have raised in a motion for authorization to file a successive motion in this court, nor does he identify any issue he was prevented from researching. As such, he has failed to demonstrate any actual injury in connection with his claims. *See Christopher v. Harbury*, 536 U.S. 403, 415-416 (2002).

Because Oudems has not raised an issue of arguable merit, his appeal is frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). As such, it is dismissed. 5TH CIR. R. 42.2. The district court’s dismissal of Oudems’s action as frivolous and the dismissal of this appeal as frivolous each count as a strike for purposes of 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387 (5th Cir. 1996). Oudems is warned that if he accumulates three strikes pursuant to Section 1915(g), he may not 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.

APPEAL DISMISSED; SANCTION WARNING ISSUED.