

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

No. 16-10453

United States Court of Appeals
Fifth Circuit

FILED

May 30, 2017

Lyle W. Cayce
Clerk

MICHAEL HURTADO,

Plaintiff-Appellant

v.

TRIAL COURT JUDGES OF THE FOLLOWING DISTRICTS, Individually and in Their Official Capacities; TRIAL COURT DISTRICT ATTORNEYS OF THE FOLLOWING DISTRICTS, Individually and in Their Official Capacities; TRIAL COURT DEFENSE ATTORNEYS, Individually and in Their Official Capacities,

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:15-CV-3402

Before HIGGINBOTHAM, DENNIS, and GRAVES, Circuit Judges.

PER CURIAM:*

Michael Hurtado, Texas prisoner # 1445905, moves for leave to proceed in forma pauperis (IFP) in an appeal of the district court's dismissal of a 42 U.S.C. § 1983 complaint. His IFP motion is a challenge to the district court's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 16-10453

certification that his appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

The original § 1983 complaint alleged that trial court judges, district attorneys, and defense attorneys violated Texas criminal defendants' rights in various ways relating to their indictment and prosecution. We agree that Hurtado's IFP motion 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, we deny his motion for leave to proceed IFP and dismiss the appeal as frivolous. *See Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2.

The district court's dismissal of Hurtado's complaint and this court's dismissal of his appeal each count as a strike under 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Hurtado also received two strikes in another recent appeal (No. 16-50039). Because he has accumulated at least three strikes under § 1915(g), Hurtado is barred from proceeding 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).

MOTION FOR LEAVE TO PROCEED IFP DENIED; APPEAL DISMISSED; 28 U.S.C. § 1915(g) BAR IMPOSED.