

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

No. 16-30162
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 3, 2017

Lyle W. Cayce
Clerk

GERALD NEAL BABINEAUX,

Plaintiff-Appellant

v.

DISTRICT ATTORNEY 27TH JUDICIAL DISTRICT COURT; EARL B.
TAYLOR,

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:15-CV-1792

Before DAVIS, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Gerald Neal Babineaux, Louisiana prisoner # 222961, appeals the dismissal of his 42 U.S.C. § 1983 complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii), as frivolous and for failure to state a claim on which relief could be granted. The district court did not err in dismissing the complaint, as Babineaux's claim that he has been denied access to the courts

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 16-30162

lacked an arguable basis in law or contained insufficient factual matter to state a plausible claim for relief. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009); *Samford v. Dretke*, 562 F.3d 674, 678 (5th Cir. 2009). Accordingly, the judgment is AFFIRMED. Babineaux’s motions relative to discovery are DENIED.

The dismissal of Babineaux’s Section 1983 complaint as frivolous and for failure to state a claim on which relief may be granted counts as a strike under Section 1915(g). *See* § 1915(g); *Coleman v. Tollefson*, 135 S. Ct. 1759, 1763–64 (2015); *Adepegba v. Hammons*, 103 F.3d 383, 387–88 (5th Cir. 1996). Babineaux is WARNED that if he accumulates three strikes, he will not be allowed 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).