IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 16-60192

United States Court of Appeals
Fifth Circuit
FILED
June 5, 2017
Lyle W. Cayce
Clerk

JAMES IRVIN HILL,

Plaintiff-Appellant

v.

MANAGEMENT TRAINING CORPORATION; WARDEN FRANK SHAW; GABRIEL WALKER, Assistant Warden; ELLA SCOTT; TIRA JACKSON, Deputy Warden; TRACY ARBUTKNOT, Case Manager; CHAPLIN ROSCOE BARNES; SHEIDRA ARRINGTON; RECREATION COORDINATOR; LARRY LEE,

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:14-CV-85

Before CLEMENT, PRADO, and HIGGINSON, Circuit Judges.

PER CURIAM:*

James Irvin Hill, formerly Mississippi prisoner # 36106, moves this court for authorization to proceed in forma pauperis (IFP) in his appeal from the dismissal of his 42 U.S.C. § 1983 claims, in part, for failure to exhaust his administrative remedies and, in part, on the merits. The district court denied

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Hill's IFP motion below and certified that the appeal was not taken in good faith.

By moving to proceed IFP in this court, Hill is challenging the district court's certification that his appeal is not in good faith because he failed to identify a nonfrivolous issue, or any issue, for appeal. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.21 (5th Cir. 1997). This court's inquiry into whether the appeal is taken in good faith "is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous)." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted).

Hill's filings before this court are insufficient to demonstrate a nonfrivolous issue for appeal in this case. Accordingly, we deny his motion for leave to proceed IFP on appeal and dismiss the appeal as frivolous. *See Baugh*, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2.

The dismissal of this appeal as frivolous counts as a strike for purposes of 28 U.S.C. § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996); *Jammer v. Thomas*, 211 F. App'x 286, 286-87 (5th Cir. 2006). Hill is cautioned that if he accumulates three strikes under § 1915(g), he will not be permitted 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).

MOTION FOR LEAVE TO PROCEED IFP DENIED; APPEAL DISMISSED; SANCTION WARNING ISSUED.