

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 27, 2026

Lyle W. Cayce
Clerk

No. 25-50111

RICHARD DENNIS LANCASTER,

Plaintiff—Appellant,

versus

ANTON SLAVICH; FNU PINON,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:24-CV-323

Before SOUTHWICK, DUNCAN, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Richard Dennis Lancaster, Texas prisoner # 2529130, moves for leave to proceed in forma pauperis (IFP) on appeal from the dismissal, under 28 U.S.C. § 1915(e), of his civil action brought pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). By moving to proceed IFP in this court, Lancaster is challenging the district court's certification that his appeal is not taken in good faith. *See Baugh*

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 25-50111

v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry “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 citations omitted).

Lancaster has demonstrated a nonfrivolous issue for appeal with respect to the district court’s determination that his claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). See *Mackey v. Dickson*, 47 F.3d 744, 746 (5th Cir. 1995). As he has also shown that he qualifies as a pauper, he is entitled to proceed IFP on appeal. See *Howard*, 707 F.2d at 220; *Carson v. Polley*, 689 F.2d 562, 586 (5th Cir. 1982). However, for the reasons set forth below, we will dispense with further briefing and affirm the district court’s dismissal. See *Baugh*, 117 F.3d at 202.

Lancaster asserts in abbreviated fashion that *Bivens* applies to his claims because both defendants are federal officers. He has failed to show error in the district court’s alternate determination that his claims should be dismissed because they do not fall within the remedy provided by *Bivens* and *Bivens* should not be extended in this case. See *Hernandez v. Causey*, 124 F.4th 325, 335 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 1930 (2025). Accordingly, we need not decide whether the district court erred in determining that Lancaster’s claims are also barred by *Heck* or by the statute of limitations. See *I.N.S. v. Bagamasbad*, 429 U.S. 24, 25 (1976).

We therefore GRANT IFP but AFFIRM the judgment of the district court. Lancaster’s motion for the production of documents is DENIED. The district court’s dismissal of Lancaster’s civil action counts as a strike under 28 U.S.C. § 1915(g). See *Adepegba v. Hammons*, 103 F.3d 383, 388 (5th Cir. 1996), *abrogated in part on other grounds by Coleman v. Tollefson*, 575 U.S. 532, 537 (2015). Lancaster is WARNED that if he accumulates three strikes, he will no longer be allowed to proceed IFP in any

No. 25-50111

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* 28 U.S.C. § 1915(g).

United States Court of Appeals

FIFTH CIRCUIT
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April 27, 2026

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 25-50111 Lancaster v. Slavich
USDC No. 6:24-CV-323

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Casey A. Sullivan, Deputy Clerk
504-310-7642

Enclosure(s)

Mr. Richard Dennis Lancaster