

August 16, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-30946
Conference Calendar

ROBERT C. FULLER,

Plaintiff-Appellant,

versus

STEVE MIDDLETON; LEROY HOLIDAY;
UNKNOWN HALEY; UNKNOWN MCWILLIAMS,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:03-CV-1245-SMH

Before BENAVIDES, CLEMENT, and PRADO, Circuit Judges.

PER CURIAM:*

Robert C. Fuller, Louisiana prisoner # 440355, appeals the district court's denial of his motion to reinstate his civil rights complaint. However, Fuller has failed to address the district court's denial of the motion to reinstate and, thus, the issue is deemed abandoned. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Fuller's appeal is without arguable merit and is dismissed as frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

1983); 5TH CIR. R. 42.2. The dismissal of this appeal as frivolous counts as a strike under 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). The district court previously dismissed one of Fuller's actions as frivolous. See Fuller v. Calloway, No. 1:04-CV-2022-FAL (W.D. La. Dec. 27, 2004). Thus, Fuller has accumulated two strikes for purposes of 28 U.S.C. § 1915(g). Fuller is cautioned that if he accumulates three strikes under 28 U.S.C. § 1915(g), he will no longer 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 28 U.S.C. § 1915(g).

APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED.