

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

August 20, 2007

Charles R. Fulbruge III
Clerk

No. 06-60589
Summary Calendar

ARVIN DALE ROCHELL

Plaintiff-Appellant

v.

CORRECTIONAL MEDICAL SERVICES, In their individual and official capacities; LARRY LINTON, Regional Vice President for Correctional Medical Services, in his individual and official capacities; KEITH IVENS, Regional Medical Director for Correctional Medical Services, in his individual and official capacities; WILLIAM STEIGER, Health Service Administrator for Correctional Medical Services at Mississippi State Penitentiary, in his individual and official capacities; DR JOHN BEARRY, Facility Medical Director for Correctional Medical Services at Mississippi State Penitentiary, in his individual and official capacities; JAMES R WOODSON, III, Dentist for Correctional Medical Services at Mississippi State Penitentiary, in his individual and official capacities; DEBBIE DAVENPORT, Correctional Lieutenant at Unit 26; JANE HALL, Correctional Officer at Unit 26; JANE HILL, Nurse for Correctional Medical Services at Mississippi State Penitentiary

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 4:05-CV-268

Before KING, HIGGINBOTHAM, and CLEMENT, Circuit Judges.

PER CURIAM:*

Arvin D. Rochell, Mississippi prisoner # 83848, seeks leave to proceed in forma pauperis (IFP) regarding his appeal from the district court's dismissal with prejudice of his 42 U.S.C. § 1983 lawsuit for failure to state a claim upon which relief may be granted. His motion to proceed IFP on appeal is construed as a challenge to the district court's decision certifying that his appeal is not taken in good faith. See *Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Rochell has failed to allege facts that raise a deliberate indifference claim. See *Domino v. Texas Dep't of Criminal Justice*, 239 F.3d 752, 756 (5th Cir. 2001); *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991). Because this appeal does not raise legal points arguable on their merits, Rochell's IFP motion is denied and the appeal is dismissed as frivolous pursuant to 5TH CIR. R. 42.2. See *Baugh*, 117 F.3d at 202; *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). With this dismissal and the district court's dismissal, as well as an earlier dismissal of an appeal as frivolous, Rochell has accumulated at least three strikes for purposes of 28 U.S.C. § 1915(g). See *Rochell v. Barnett*, 84 F.3d 432, 1996 WL 248845 at *1 (5th Cir. Apr. 5, 1996) (unpublished). Rochell is advised that he will no longer be able to proceed 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).

IFP MOTION DENIED; APPEAL DISMISSED AS FRIVOLOUS; 28 U.S.C. § 1915(g) BAR IMPOSED.

* 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.