

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-40210
Conference Calendar

LARRY DONNELL ANDREWS,

Plaintiff-Appellant,

versus

MAXIMILLIANO HERRERA; KEVIN WESEMAN;
PRASIFIKA; SIMPON, WARDEN; MORRIS, MAJOR,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-99-CV-344

October 18, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Larry Donnell Andrews, Texas state prisoner # 622716, appeals the dismissal of his civil rights claims as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i). Andrews has abandoned the issue of the dismissal of his claims against the defendants in their official capacities as barred by the Eleventh Amendment by failing to brief that issue on appeal. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993).

A dismissal of a complaint as frivolous under § 1915(e)(2)(B)(i) is reviewed for an abuse of discretion. See Ruiz v. United States, 160 F.3d 273, 275 (5th Cir. 1998).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Unsuccessful medical treatment, negligence, or medical malpractice do not constitute deliberate indifference. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Andrews'

"[d]isagreement with [his] medical treatment does not state a claim for Eighth Amendment indifference to medical needs."

Norton v. Dimazana, 122 F.3d 286, 292 (5th Cir. 1997).

The district court did not abuse its discretion in dismissing Andrews' claims of deliberate indifference to serious medical needs as frivolous.

AFFIRMED.