

February 18, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-30856
Conference Calendar

VINCENT MARK CASTILLO,

Plaintiff-Appellant,

versus

STATE OF LOUISIANA; et al.,

Defendants,

GLEN JAMBON, Colonel, Deputy Administrator;
RONALD GURBA, Lieutenant, Special Investigative Unit;
KEVIN THERIOT, Lieutenant, Special Investigative Unit;
RAYMOND BAUM, Lieutenant, Watch Commander; GARY COOK,
Deputy; HENRY CASELLI, Captain; MICHAEL O. BORNE,
Lieutenant, Watch Commander; ROBERT SAMAN, Lieutenant,
Food Service; DAVID BIEWER, Sergeant; JOHN MARQUEZ, Sergeant;
BETTY HRON, RN, Medical Administrator; KENNETH DAVIS, LPN,
Nursing Administrator; GARY SCHWAB, Deputy Chief, Correctional
Administrator; HARRY LEE, Jefferson Parish Sheriff; JUANITA
PAYTON, Nurse, identified in plaintiff's complaint as
"Nurse Juanity"; JOHN BIAMONTE, Major; FRANK INGLE, Sergeant,
erroneously sued as Sergeant F. Ingle; JERRY MOLL, Deputy;
DEPUTY FINITI; JENNIFER JEFFERSON, Deputy; DAVID DUPLANTIS,
Deputy; WILLIAM MILES, Deputy; DEPUTY WILSON; DEPUTY MORRIS;
KEVIN RAY, Deputy; LARRY TURKS, Deputy; ALDIN GROVES, Deputy;
DEPUTY MANN; EDWIN WILKENS; JIMMY MENDEZ, Deputy; GEORGE JOHNSON,
Deputy; DEPUTY LEWIS; DEPUTY SIMMONS; DEPUTY BUSEY; ERNEST
PIERRE, Deputy; DEPUTY SIGGSWORTH; DEPUTY MUMPHRY; S. INGLE,
Sergeant; UNIDENTIFIED PARTY; JAMES CLINTON, Deputy,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 00-CV-1826-B

Before HIGGINBOTHAM, EMILIO M. GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Vincent Mark Castillo, Louisiana prisoner # 428777, moves for leave to proceed in forma pauperis ("IFP") following a non-jury trial and the district court's judgment in favor of the defendants in his civil rights complaint under 42 U.S.C. § 1983. Castillo's motion is a challenge to the district court's certification that his appeal is not taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Afforded liberal construction, Castillo argues that the district court failed to grant him an out-of-time appeal. He also asserts conclusively that 1) the magistrate judge conducted his trial without consent, 2) the magistrate judge failed to recuse himself, and 3) he was denied the assistance of counsel. These claims have not been adequately briefed and are deemed abandoned. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). Castillo has not shown that the district court erred in certifying that the appeal is not taken in good faith. He has not shown that he will present a nonfrivolous issue on appeal. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983). Accordingly, the motion for leave to proceed IFP is DENIED and the appeal is DISMISSED as frivolous. Baugh, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2. Castillo is CAUTIONED that the dismissal

* 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.

of this appeal counts as a "strike" for purposes of 28 U.S.C. § 1915(g) and that if he accumulates three strikes, he will not 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 Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996).

IFP MOTION DENIED; APPEAL DISMISSED; SANCTIONS WARNING ISSUED.