

January 19, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-60645
Summary Calendar

BARBARA MCDONALD,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 4:02-CV-82LN

Before JONES, BENAVIDES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Barbara McDonald appeals the summary judgment granted in favor of the Government on her Federal Tort Claims Act (FTCA) case, alleging dental malpractice. Her sole argument on appeal is that the district court used the wrong standard under Mississippi law to determine causation. McDonald does not challenge on appeal the district court's conclusion that she waived any medical malpractice claims other than her allegation

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that she was not given an opportunity to make an informed consent to the medical procedure, and she also did not challenge the court's finding that she failed to establish causation. These claims are therefore deemed abandoned. See Elvis Presley Enters., Inc. v. Capece, 141 F.3d 188, 193 n.2 (5th Cir. 1998).

Although the district court did not specifically state that it was applying the "objective causation" test used under Mississippi law for medical malpractice claims, the court used the proper standard and concluded that McDonald had presented no evidence to show that a reasonable person would have withheld consent if informed of the risks involved in the procedure. See Phillips v. Hull, 516 So. 2d 488,493 (Miss. 1987). The judgment of the district court is AFFIRMED.