

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 98-20246  
Conference Calendar

---

WILBERT PRUDHOMME,

Plaintiff-Appellant,

versus

MARSHAL HERKLOLTZ; WILLIAM S. WINKLER;  
W. BERGEY, Doctor,

Defendants-Appellees.

- - - - -  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-94-CV-1920  
- - - - -  
February 12, 1999

Before BARKSDALE and EMILIO M. GARZA, Circuit Judges.\*

PER CURIAM:\*\*

Wilbert Prudhomme, Texas prisoner # 513953, appeals the summary judgment order dismissing his civil rights action filed pursuant to 42 U.S.C. § 1983. Prudhomme has failed to demonstrate deliberate indifference to his serious medical needs with regard to his claim that he was denied treatment for an infection resulting from a broken jaw. See Johnson v. Treen, 759

---

\*This matter is being decided by a quorum. 28 U.S.C. § 46(d).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

F.2d 1236, 1237 (5th Cir. 1985). At most, Prudhomme has shown negligence on the part of defendants. As such, his claims are not actionable under § 1983. See Farmer v. Brennan, 511 U.S. 825, 834 (1994).

This appeal is without arguable merit and thus frivolous. It is DISMISSED. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2.

Additionally, Prudhomme is warned that future frivolous appeals will invite the imposition of sanctions. Prudhomme should review any pending appeals to ensure that they do not raise frivolous arguments.

APPEAL DISMISSED; SANCTION WARNING ISSUED.