

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-60341
Conference Calendar

RANDI MOHR,

Plaintiff-Appellant,

versus

JOHN BEARRY, DR.; WALTER BOOKER;
JAMES V. ANDERSON; JOHN DIAL, DR.,

Defendants-Appellees.

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Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:99-CV-657-BN
- - - - -

June 18, 2001

Before WIENER, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Randi Mohr, Mississippi prisoner #08111, appeals the dismissal of his 42 U.S.C. § 1983 complaint for failure to state a claim upon which relief may be granted. He contends that the defendants failed to provide appropriate medical care following his slip and fall accident.

Accepting Mohr's allegations in the light most favorable to him, he has failed to state a claim for relief. The heart of his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

complaint is simply that he did not receive the treatment he believes he was entitled to receive. However, "[d]isagreement with 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). Whatever deficiencies there may have been in Mohr's treatment, if any, certainly do not rise to the level of establishing deliberate indifference on the part of the defendants. Accordingly, the magistrate judge did not err in dismissing his complaint for failure to state a claim.

Mohr's appeal is without merit and therefore frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. See 5TH CIR. R. 42.2. The magistrate judges's dismissal of the present case and our dismissal of this appeal count as two strikes against Mohr for purposes of 28 U.S.C. § 1915(g). We caution Mohr that once he accumulates three strikes, he may not proceed in forma pauperis 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 28 U.S.C. § 1915(g).

APPEAL DISMISSED; SANCTION WARNING ISSUED.