

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30350
Conference Calendar

ALAN ROY WEST,

Plaintiff-Appellant,

versus

U.S. MARSHAL; TODD CLEMENTS,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 00-CV-1423
- - - - -

October 26, 2001

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Alan Roy West, federal prisoner # 10562-035, appeals from the district court's dismissal with prejudice of his civil-rights lawsuit alleging denial of medical treatment as frivolous and for failure to state a claim upon which relief may be granted.

Orders dismissing complaints as frivolous under 28 U.S.C.

§ 1915(e)(2)(B)(i) are reviewed for an abuse of discretion. See Berry v. Brady, 192 F.3d 504, 507 (5th Cir. 1999). Complaints dismissed for failure to state a claim under 28 U.S.C.

§ 1915(e)(2)(B)(ii) are subject to de novo review. See Harris v.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Hegmann, 198 F.3d 153, 156 (5th Cir. 1999). Under either standard, West's claims lack merit.

Although West filed his instant complaint pursuant to 42 U.S.C. § 1983, the district court properly construed such complaint as alleging claims under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). A federal agency is not subject to suit under Bivens. See F.D.I.C. v. Meyer, 510 U.S. 471, 486 (1994). West's instant claims against the U.S. Marshal's Service were therefore properly dismissed.

The remaining defendants are a federal magistrate judge and a U.S. District Attorney. Both are absolutely immune from suit because their challenged actions were performed within the bounds of their official duties. See Boyd v. Biggers, 31 F.3d 279, 284-85 (5th Cir. 1994). Accordingly, the district court's judgment is AFFIRMED.