

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40121
Conference Calendar

LENARD ALFRED SMOCK, JR.,

Plaintiff-Appellant,

versus

UNIT HEALTH ADMINISTRATOR, Gurney Unit, Moore Unit;
MARIE BLACK, Nurse Practitioner, Moore Unit; UP GREENWOOD,
Administration, Moore Unit; POLLA HEWITT, RN, Moore Unit;
UP KEARNEY, Administration, Moore Unit; ROCHELLE MCKINNEY,
RN, Moore Unit,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 3:01-CV-41

October 30, 2002

Before DeMOSS, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Lenard Alfred Smock, Texas prisoner # 885088, appeals the district court's dismissal without prejudice of his pro se, in forma pauperis 42 U.S.C. § 1983 action for failure to comply with the order requiring him to answer specific questions about each defendant's personal involvement and actions supporting his claim

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 deliberate indifference and for failure to exhaust administrative remedies.

Smock's appellate brief is devoted to arguing the merits of his complaint. Smock does not adequately argue that the district court erred in dismissing his complaint without prejudice based on either failure to amend his complaint in compliance with the magistrate judge's order to provide specific facts concerning each named defendant, or failure to provide proof that his claims as to each named defendant were administratively exhausted. Smock's appellate brief does not challenge the reasons for the district court's dismissal of his complaint. Smock has thus waived the only issues for appeal. Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993); Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). This appeal is without arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). It is therefore DISMISSED. See 5TH CIR. R. 42.2. Smock's outstanding motions are DENIED.

The dismissal of this appeal counts as Smock's second strike under the Prison Litigation Reform Act. See Adepegba v. Hammons, 103 F.3d 383, 387 (5th Cir. 1996); Smock v. Unit Health Administrator, No. 01-41402 (5th Cir. May 31, 2002)(unpublished) (first strike). Smock is WARNED that if he accumulates three "strikes" under 28 U.S.C. § 1915(g) 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 28 U.S.C. § 1915(g).

APPEAL DISMISSED, MOTIONS DENIED, SANCTION WARNING ISSUED.