

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-60452
Summary Calendar

VERONICA MCCALLUP,

Plaintiff-Appellant,

versus

MIKE MOORE,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:02-CV-246-BN

October 29, 2002

Before BARKSDALE, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Veronica McCallup, prisoner # K1256, appeals the district court's dismissal of her civil rights complaint as malicious and for failure to state a claim. See 28 U.S.C. § 1915(e)(2)(B)(i), (ii). A district court is required to dismiss a prisoner's in forma pauperis (IFP) civil rights complaint, sua sponte, if the court determines that the action is frivolous or malicious or fails to state a claim. Black v. Warren, 134 F.3d 732, 733 (5th

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Cir. 1998); see 28 U.S.C. § 1915(e)(2)(B). McCallup has abandoned the issue of the district court's dismissal of her claims as duplicative by failing to brief the issue on appeal. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993); see 28 U.S.C. § 1915(e)(2)(B)(i). McCallup has not demonstrated that the district court erred in dismissing for failure to state a claim her claim of unlawful confinement. See Heck v. Humphrey, 512 U.S. 477, 486-87 (1994); 28 U.S.C. § 1915(e)(2)(B)(ii). McCallup has shown no abuse of discretion in the dismissal of her complaint without providing her an opportunity to amend. See Jones v. Greninger, 188 F.3d 322, 326-27 (5th Cir. 1999).

McCallup's appeal is without arguable merit and is therefore frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, McCallup's appeal is DISMISSED. See 5TH CIR. R. 42.2. This court recently has cautioned McCallup that because of her accumulation of strikes for purposes of 28 U.S.C. § 1915(g), she may not proceed IFP in any civil action or appeal filed while she is incarcerated or detained in any facility unless she is in imminent danger of serious physical injury. See 28 U.S.C. § 1915(g); McCallup v. Musgrove, No. 02-60233 (5th Cir. Aug. 20, 2002) (unpublished); McCallup v. Miss. Dep't of Corrections, No. 02-60243 (5th Cir. Aug. 20, 2002) (unpublished). McCallup is hereby further cautioned that the prosecution of additional frivolous appeals will invite the imposition of

additional sanctions. McCallup should review any pending appeals to determine whether they raise frivolous issues.

APPEAL DISMISSED; THREE-STRIKES BAR NOTED; SANCTION WARNING ISSUED.