

April 20, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-10610  
Conference Calendar

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ADOLPHUS PETTY,

Plaintiff-Appellant,

versus

JOSEPH DOMINGUEZ, Warden, NFN MADDOX, Lieutenant,  
NFN REYNA, Sergeant, NFN ADUDELLE, Correctional Officer III,  
NFN HULEN, Correctional Officer III, NFN SIMMONS, Sergeant,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:03-CV-19  
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Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:\*

Adolphus Petty appeals from the dismissal of his 42 U.S.C. § 1983 action as malicious because it was duplicative of his earlier 42 U.S.C. § 1983 action. Petty's motion for an injunction to preserve medical records is DENIED. Petty contends that the district court erred by dismissing his complaint pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994), because he was not attempting to invalidate the result of any disciplinary

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

hearing; that an interoffice memorandum attached to his appellate brief demonstrates that he did invalidate the results of his disciplinary hearing; and that the use of force against him violated the Eighth Amendment.

Petty does not contend that the district court erred by finding that his second 42 U.S.C. § 1983 action was duplicative of his first 42 U.S.C. § 1983 action and dismissing the action because it was malicious. Petty has failed to brief a dispositive issue for appeal and has abandoned that issue. See *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Petty's appeal is without arguable merit and is frivolous. *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). This court, on June 24, 2003, imposed the three-strikes sanction of 28 U.S.C. § 1915(g) on Petty. *Petty v. Kelly*, No. 02-41231, 3-4 (5th Cir. Jun. 24, 2003). We remind Petty that he may not proceed in forma pauperis (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. See 5TH CIR. 42.2.