

FILED

June 23, 2004

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 03-21136
Conference Calendar

REGGIE L. McCOY,

Plaintiff-Appellant,

versus

CARL CASTERLINE, Warden; NEIL ADLER, Warden; BOBBY C. TYLER,
Associate Warden; GRONDOLSKI, Associate Warden, STAFF MEMBERS
NAMES UNKNOWN,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-03-CV-4439

Before BARKSDALE, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Reggie L. McCoy, federal prisoner # 11732-018, appeals from the district court's dismissal of his civil rights action as malicious. McCoy asserts that this court should address the merits of his claims. McCoy has also filed a motion in this court requesting equitable relief from alleged prison overcrowding and other conditions of confinement. This motion is DENIED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

McCoy does not contend that the district court erred in determining that the present civil rights lawsuit was duplicative of his previous lawsuit and dismissing the action because it was malicious. McCoy has failed to brief a dispositive issue for appeal and has therefore abandoned that issue. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). McCoy's appeal is without arguable merit and is therefore dismissed as frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983).

McCoy is cautioned that the district court's dismissal of his complaint and the dismissal of this appeal both count as "strikes" under 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 388 (5th Cir. 1996). McCoy is also advised that if he accumulates three strikes, he will be barred from proceeding 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). McCoy is advised to review any pending pleadings or appeals to ensure that they do not raise any frivolous claims.

APPEAL DISMISSED; MOTION DENIED; SANCTION WARNING ISSUED.