

August 14, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-10415  
Summary Calendar

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CECIL CLARENCE DOUGLAS,

Plaintiff-Appellant,

versus

C. MCCASLAND, Physician Assistant; JOHN ADAMS, Warden;  
D. DESHIELDS, Medical Director;  
ASSISTANT RASSBERRY, Physician Assistant,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
No. 5:04-CV-95  
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Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:\*

Cecil Douglas appeals the dismissal of his civil rights suit in which he alleges that defendants were deliberately indifferent to his serious medical needs. The district court concluded that the suit is frivolous.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

With the benefit of liberal construction, we glean that Douglas argues that defendants exposed him to an unreasonable risk of harm to his health by removing a medical restriction on his work assignment and requiring that he work in the prison laundry. Although Douglas has a history of cardiac and kidney problems, he has failed to show that defendants knowingly assigned him to sedentary work knowing that the classification would significantly aggravate his condition; Douglas's disagreement with his medical classification does not state a constitutional claim. See Wilson v. Budney, 976 F.2d 957, 958 (5th Cir. 1992); Jackson v. Cain, 864 F.2d 1235, 1246 (5th Cir. 1989).

Douglas's appeal is without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is dismissed. See 5TH CIR. R. 42.2. Douglas is cautioned that the dismissal of this appeal as frivolous, and the district court's dismissal of his complaint as frivolous, count as strikes under 28 U.S.C. § 1915(g). See Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). He is warned that if he accumulates three strikes under § 1915(g), he will not be permitted to proceed 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 § 1915(g).

APPEAL DISMISSED; SANCTION WARNING ISSUED.