

December 13, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 05-60275  
Summary Calendar

---

EDDIE BLACK,

Plaintiff-Appellant,

versus

WACKENHUT; W.M. WILLIAMS, Warden;  
DR. VIRGINIA VITTOR; MELANIE  
GILLILAND, Head Nurse; GEORGE  
SNYDER, Warden,

Defendants-Appellees.

-----  
Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 3:03-CV-157  
-----

Before SMITH, GARZA, and PRADO, Circuit Judges.

PER CURIAM:\*

Eddie Black has filed an application for leave to proceed in forma pauperis (IFP) on appeal following a summary judgment in favor of Dr. Virginia Vittor, which resulted in the dismissal of his 42 U.S.C. § 1983 lawsuit. By moving for leave to proceed IFP, Black is challenging the district court's certification that IFP should not be granted on appeal because his appeal is not

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

taken in good faith. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

Black contends that Vittor changed his medication and the dosage without first advising him of the alteration. He has not established that Vittor's actions evinced deliberate indifference to his serious medical needs. See Johnson v. Treen, 759 F.2d 1236, 1238 (5th Cir. 1985); see also Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Black also contends that the district court erred in not ordering the defendants to answer his interrogatories. He has not established that the district court abused its discretion in denying such discovery after the magistrate judge had issued his report and recommendation. See Moore v. Willis Indep. School Dist., 233 F.3d 871, 876 (5th Cir. 2000).

Black's appeal is thus without arguable merit and is frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Accordingly, we uphold the district court's order certifying that the appeal is not taken in good faith and denying Black IFP status on appeal, we deny the motion for leave to proceed IFP, and we DISMISS Black's appeal as frivolous. See Baugh, 117 F.3d at 202 n.24; 5TH CIR. R. 42.2.

APPEAL DISMISSED.