

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 18, 2010

Charles R. Fulbruge III
Clerk

No. 09-40708

Summary Calendar

JODY MCCREARY,

Plaintiff-Appellant

v.

JACK SKEEN, JR.; DIANE DEVASTO; ALICIA CASHELL; DONALD
DAVIDSON,

Defendants-Appellees

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:09-CV-253

Before JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

Jody McCreary, Texas prisoner # 1142309, moves this court for leave to proceed in forma pauperis (IFP) in this appeal from the district court's dismissal of his 42 U.S.C. § 1983 complaint. The district court dismissed the complaint because McCreary had not shown that he paid the \$200 sanction imposed in *In re McCreary*, No. 08-40665, and, for the same reason, certified that the appeal was not taken in good faith.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

In his IFP motion, McCreary does not address the district court's reasons for denying IFP. By failing to discuss the district court's rationale for denying his IFP motion, McCreary has abandoned the issue, and it is the same as if he had not appealed the district court's order. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Accordingly, McCreary's IFP motion is denied and his appeal is dismissed as frivolous. *See Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

We have previously warned McCreary that the filing of any future frivolous or repetitive filings in this court or any court subject to this court's jurisdiction would subject him to additional sanctions as would the failure to withdraw any pending matters that are frivolous. *See McCreary v. Gardner*, No. 09-40398, 2009 WL 5183837 at *1 (5th Cir. Dec. 28, 2009)(unpublished); *McCreary v. Kent*, No. 09-40348, 2009 WL 5183838 at *1 (5th Cir. Dec. 28, 2009)(unpublished). Because he failed to withdraw this appeal, McCreary is ordered to pay sanctions in the amount of \$100, payable to the clerk of this court. The clerk of this court and the clerks of all federal district courts within this circuit are directed to refuse to file any civil complaint or appeal by McCreary unless McCreary submits proof of satisfaction of this sanction. If McCreary attempts to file any further notices of appeal or original proceedings in this court without such proof, the clerk will docket them for administrative purposes only. Any other submissions which do not show proof that the sanction has been paid will be neither addressed nor acknowledged.

IFP DENIED; APPEAL DISMISSED; SANCTION IMPOSED.