

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-50527  
Conference Calendar

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DAVID KIKTA,

Plaintiff-Appellant,

versus

MARIAM A. MARUASTI, M.D.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-93-CA-241-H  
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(January 26, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,  
Circuit Judges.

PER CURIAM:\*

David Kikta filed this civil rights action under 28 U.S.C. § 1983 against Dr. Mariam A. Maruasti alleging that he was identified as a suicide risk, that Dr. Hernandez referred him to Dr. Maruasti, that Dr. Maruasti's evaluation of him was inadequate, and that she failed to provide him with proper medical treatment. He contended that Dr. Maruasti's actions amounted to deliberate indifference to his serious medical needs and medical malpractice. The district court held that Kikta's

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

allegations did not rise "above a claim of simple negligence or malpractice" or "to the level of conscious or callous indifference to his medical needs" and dismissed Kikta's complaint.

In his appellate brief, Kikta's only argument relates to the district court's characterization of him as a pretrial detainee. He does not challenge the merits of the district court's holding that his allegations did not rise above the level of simple negligence or malpractice to the level of a constitutional deprivation of medical care.

This Court will not raise and discuss legal issues that the appellant has failed to assert. Kikta's failure to identify any error in the district court's analysis or application to the facts of the case is the same as if he had not appealed the judgment. Therefore, his claims are considered abandoned. Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). Kikta's argument regarding error in the district court's finding that he was a pretrial detainee is irrelevant to the district court's dispositive holding that his allegations did not rise above negligence or malpractice.

APPEAL DISMISSED AS FRIVOLOUS. See 5th Cir. R. 42.2.