

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-60364  
Conference Calendar

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GABRIEL MCDOWELL,

Plaintiff-Appellant,

versus

HANCOCK COUNTY MEDICAL UNIVERSITY;  
DIRECTOR OF HANCOCK COUNTY MEDICAL UNIVERSITY,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 1:96-CV-104-GR  
- - - - -

October 24, 1996

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

PER CURIAM:\*

Gabriel McDowell, Mississippi prisoner # 337862, appeals the district court's dismissal of his 42 U.S.C. § 1983 civil rights suit as frivolous pursuant to 28 U.S.C. § 1915(d), now redesignated as § 1915(e)(2)(B)(i) by § 804 of the Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321 (1996). McDowell's allegation that Hancock County Medical

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

University and its director were negligent in hiring medical personnel who misdiagnosed and mistreated his medical condition is insufficient to give rise to a § 1983 cause of action. See Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). McDowell does not allege acts by the defendants "sufficiently harmful to evidence deliberate indifference to serious medical needs." See Estelle v. Gamble, 429 U.S. 97, 106 (1976). The district court did not abuse its discretion in dismissing McDowell's claim as frivolous because it has no arguable basis in law. See Denton v. Hernandez, 504 U.S. 25, 31-34 (1992).

McDowell's appeal is without arguable merit and thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED.

We caution McDowell that any additional frivolous appeals filed by him will invite the imposition of sanctions. To avoid sanctions, McDowell is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTION WARNING ISSUED.