

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-30282
(Summary Calendar)

STEVE J. GARNER,

Plaintiff-Appellant,

versus

SUE B. HEAD,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
(USDC No. 96-CV-1911)
- - - - -

January 5, 1997

Before WIENER, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Steve J. Garner, federal prisoner # 17799-001, argues that the district court erred in dismissing his complaint for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(b)(ii). Garner argues that the defendant Sue Head, a federal probation officer, allowed false information to remain in Garner's presentence report which resulted in his being denied bail following his arrest.

Garner further alleged that he received very little food while awaiting his criminal trial in the West Monroe Jail which rendered

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

him mentally incapable of testifying on his own behalf at trial.

Garner's motion for appointment of counsel is DENIED.

We have reviewed the record, including the decision of the district court and the brief filed by Garner. Essentially for reasons adopted by the district court, Garner v. Head, No. 96-CV-1911 (W.D. La. March 3, 1997) (unpublished), we hold that the district court did not err in dismissing the complaint for failure to state a claim upon which relief can be granted.

Garner has not argued on appeal his claims concerning the conditions of confinement at the Lewisburg, Pennsylvania, and Atlanta, Georgia, jails. Therefore, these claims are deemed abandoned on appeal. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987)

Garner'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. See 5th Cir. R. 42.2. APPEAL DISMISSED.