

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-30080
Conference Calendar

VEREL TRACY WESTOVER, SR.,

Plaintiff-Appellant,

versus

LINDA JOHNSON ET. AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 97-CV-1611

August 18, 1998

Before KING, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

Verel Tracy Westover, Sr., appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint with prejudice under 42 U.S.C. § 1915(e) as frivolous and for failure to state a claim upon which relief may be granted. Westover contends that prison officials were deliberately indifferent to his serious medical needs. We have reviewed the record and Westover's brief and DISMISS for essentially the same reasons adopted by the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court. Westover v. Johnson, No. 97-1611 (W.D. La. Dec. 15, 1997).

To the extent that Westover raises a separate claim for "assault and battery," for the first time on appeal, this claim, does not rise to the level of plain error. See Robertson v. Plano City of Texas, 70 F.3d 21, 23 (5th Cir. 1995).

Westover's appeal is without merit and therefore 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. We caution Westover that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Westover is further cautioned to review any pending appeals to ensure that they do not raise arguments that are frivolous.

APPEAL DISMISSED; SANCTIONS WARNING ISSUED.