

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-10364

FERNANDO P. YNOSTROSA,

Plaintiff-Appellant,

versus

JORGE E. UGAZ, Dr.; MCNEE, Nurse,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 7:96-CV-46-X

November 17, 1999

Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

IT IS ORDERED that Texas state prisoner # 432319 Fernando P. Ynostrosa's appeal from the district court's denial of leave to appeal in forma pauperis (IFP) is DENIED, because the appeal lacks arguable merit and is therefore frivolous. See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997); Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, IT IS FURTHER ORDERED that the appeal is DISMISSED and

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Ynostrosa's motion for an extension of time in which to file a formally correct brief is DENIED.

In his 42 U.S.C. § 1983 civil rights action, Ynostrosa alleged that sole appellee Dr. Jorge E. Ugaz, the medical director of his prison unit, denied him adequate medical treatment. Ynostrosa asserted that Dr. Ugaz acted with deliberate and callous indifference to Ynostrosa's serious medical needs by refusing to refer him for surgery to repair his perforated eardrum and by refusing to prescribe ibuprofen in strong enough doses to alleviate his ear pain.

The district court granted summary judgment to Dr. Ugaz, based on his affidavit and other evidence. Ynostrosa contends that the district court reversibly erred, because there are genuine issues of material fact concerning his claims. The lack of arguable merit of Ynostrosa's contentions is demonstrated by the district court's memorandum opinion. Ynostrosa v. Ugaz, No. 7:96-CV-46-X (N.D. Tex., March 5, 1999)(unpublished).

IFP DENIED; MOTION FOR EXTENSION OF TIME DENIED; APPEAL DISMISSED.