

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-40687  
Conference Calendar

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THARWAT M. HAMAMCY,

Plaintiff-Appellant,

versus

TEXAS STATE BOARD OF MEDICAL EXAMINERS,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. B-94-CV-55  
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February 17, 2000

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

PER CURIAM:\*

Tharwat M. Hamamcy filed a complaint in federal district court against the Texas State Board of Medical Examiners (the Board) under 42 U.S.C. § 1983 alleging that the Board denied him due process and equal protection in revoking his medical license. The Board moved to dismiss the complaint, arguing that it is barred by the Eleventh Amendment to the Constitution, that Hamamcy failed to state a claim under § 1983, and that the suit is barred by the doctrines of res judicata and/or collateral estoppel owing to the fact that five other state and federal lawsuits filed by Hamamcy against the Board have all terminated

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\* Pursuant to 5<sup>TH</sup> 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

in the Board's favor. The district court granted the motion to dismiss.

We have previously rejected claims by Hamamcy against the Board arising from the revocation of his medical license, on the ground that the Board was entitled to Eleventh Amendment immunity. Hamamcy v. Texas Bd. of Med. Exam'rs, Case No. 94-60776 (5<sup>th</sup> Cir. June 29, 1995) (unpublished).\*\* Hamamcy did not brief the res judicata/collateral estoppel basis of the district court's dismissal, and he has thus abandoned that issue. See Yohey v. Collins, 985 F.2d 222, 224-25 (5<sup>th</sup> Cir. 1993). The district court's grant of the motion to dismiss may be affirmed on this theory. See Sojourner T. v. Edwards, 974 F.2d 27, 30 (5<sup>th</sup> Cir. 1992) (court may affirm judgment on any basis supported by the record).

This appeal is without arguable merit and thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5<sup>th</sup> Cir. 1983). Because the appeal is frivolous, it is dismissed. 5<sup>th</sup> Cir. R. 42.2. Appellant is cautioned that any future frivolous appeals will be subject to the imposition of sanctions.

DISMISSED.

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\*\* Although unpublished opinions issued on or after January 1, 1996, are not precedent, they may nevertheless be persuasive. See 5<sup>th</sup> Cir. R. 47.5.4. Further, such opinions do have precedential value under the doctrines of res judicata and collateral estoppel.