

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-41345
Conference Calendar

ROBERT EARL JOHNSON,

Plaintiff-Appellant,

versus

TIM WEST, ET AL.,

Defendants,

RICHARD ALFORD; DAN LEWIS; DAVID CONLEY;
MICHAEL SIMMONS; WAYNE BREWER; TODD BENOIT;
BRANDAL COLLINS; DAVID HOGAN;
WINFORD GOOLSBEE; JERRY BODIN, JR.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:96-CV-652

April 11, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

Robert Earl Johnson, Texas prisoner #538275, proceeding *pro se* and *in forma pauperis* (IFP), appeals the dismissal of his 42 U.S.C. § 1983 complaint. Johnson's motions for appointment of counsel and for an injunction or temporary restraining order are DENIED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Johnson asserts, without explanation, that he was denied due process during disciplinary proceedings and that he was charged with a disciplinary infraction by the wrong prison official. Johnson does not challenge the district court's reasons for dismissing, pursuant to 28 U.S.C. § 1915(e)(2)(B) as frivolous and for failure to state a claim, his claims related to the disciplinary proceedings. See *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987) (when appellant fails to identify error in district court's analysis, it is the same as if appellant had not appealed the judgment). Thus, Johnson has abandoned any challenge to the district court's reasons for dismissing his claims concerning the prison disciplinary proceedings. See *id.*

Johnson reiterates that the defendants used excessive force against him, and he asserts that Nurse Eaves should have been called to testify at trial. Johnson has not briefed these issues sufficiently. See Fed. R. App. P. 28(a)(9); *Grant v. Cuellar*, 59 F.3d 523, 524 (5th Cir. 1995).

Johnson's appeal is without arguable merit and is 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.

The dismissal of Johnson's appeal and the district court's dismissal as frivolous and for failure to state a claim count as two strikes for purposes of 28 U.S.C. § 1915(g). See *Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). We caution Johnson that once he accumulates three strikes, he may not

proceed IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

APPEAL DISMISSED AS FRIVOLOUS; SANCTION WARNING ISSUED;
MOTIONS DENIED.