

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-41246
Summary Calendar

VINCENT LILLY,

Plaintiff-Appellant,

versus

GLEND A ADAMS, Eastern Region Director; LYNN AVANT, Facility
Practice Manager; CLARENCE THOMAS, Medical Doctor/Director;
LLOYD AUSCHBERGE,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:01-CV-348

March 21, 2003

Before DAVIS, DUHÉ, and DeMOSS, Circuit Judges.

PER CURIAM:¹

Vincent Lilly, Texas prisoner # 467486, appeals the dismissal of his pro se, in forma pauperis, complaint filed pursuant to 42 U.S.C. § 1983 against Dr. Glenda Adams, Dr. Clarence Thomas, Dr. Lynn Avant, and physician's assistant Lloyd Auschberge. The complaint alleged that the defendants acted with deliberate indifference to Lilly's medical needs and deprived him of proper medical treatment in violation of the Eighth Amendment.

¹ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

The district court dismissed the complaint as frivolous pursuant to 28 U.S.C. § 1915, and denied Lilly's FED. R. CIV. P. 59(e) motion to alter or amend the judgment.

Lilly contends that Thomas and Auschberge provided him with inadequate dosages of prednisone to treat his sarcoidosis and that he suffered ill effects as a result, but a prisoner's disagreement with prison officials regarding medical treatment does not give rise to a 42 U.S.C. § 1983 cause of action; nor does unsuccessful medical treatment. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Lilly does not argue that the district court erred in rejecting his other arguments; he therefore has abandoned them. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

This appeal is without arguable merit and is thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is DISMISSED. 5TH CIR. R. 42.2.

The district court's dismissal and this court's dismissal count as two strikes for purposes of 28 U.S.C. § 1915(g). See generally Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996). Lilly is WARNED that if he accumulates three strikes he may not proceed in forma pauperis 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; SANCTIONS WARNING ISSUED.