

March 13, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-30173  
Summary Calendar

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MARK DELAFOSSE,

Plaintiff-Appellant,

versus

RICHARD L. STALDER; BURL CAIN; DARRYL VANNOY; LESLIE DUPONT;  
DWAYNE MCFATTER; CATHY FONTENOT; ROGER MITCHELL; ROBERT  
TONEY; YUSUF ABDULLAH; ASSISTANT WARDEN DAVID BONNETTE;  
JAMIE FELDER; DONALD BARR; CATHY ROBERTS; JOSEPH HEWES;  
ROBERT ROWE; JAMES DOUZAT; MARK MILLER,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 3:03-CV-803  
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Before JOLLY, DAVIS, and OWEN, Circuit Judges.

PER CURIAM:\*

Mark Delafosse, Louisiana prisoner #354829, proceeding pro se, moves for leave to proceed in forma pauperis (IFP) in an appeal of the district court's final judgment that dismissed his 42 U.S.C. § 1983 complaint. Delafosse's IFP motion is a challenge to the district's certification that his appeal is not taken in good faith. Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Delafosse challenges the district court's application of the physical-injury requirement of 42 U.S.C. § 1997e(e) to bar his First Amendment claim for compensatory damages due to denial of a religious diet. This court has rejected Delafosse's argument. See Geiger v. Jowers, 404 F.3d 371, 374-75 (5th Cir. 2005).

The district court dismissed as moot Delafosse's claim for injunctive relief based on the denial of a religious diet, because Delafosse had been moved to another prison facility. In his IFP motion and brief, Delafosse notes in his recitation of the procedural history of his case that he had filed a post-judgment motion contending that the magistrate judge's recommendation that his claims for declaratory and injunctive relief were moot was based on a mistake of fact.\*\* He does not mention the mootness determination at any other point in his IFP motion or brief. Therefore, he has failed to brief this issue and thereby abandoned it. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993); Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987).

Because Delafosse has not identified a non-frivolous issue for appeal, his motion for IFP status on appeal is DENIED and the appeal is DISMISSED as frivolous.

APPEAL DISMISSED; MOTION DENIED.

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\*\*In his post-judgment motion, Delafosse asserted that prior to the magistrate judge's issuance of his report and recommendation, he had been returned to Angola, the prison at which he had been denied a religious diet.