

United States Court of Appeals
for the Fifth Circuit

No. 22-30575
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 1, 2023

Lyle W. Cayce
Clerk

WILLIAM R. ABBOTT,

Plaintiff—Appellant,

versus

UNITED STATES BUREAU OF PRISONS; SEKOU MA'AT; OSCAR
MACK; D. STOUT; SHELIA LYONS,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:21-CV-3890

Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

William R. Abbott, federal prisoner # 57819-083, appeals the dismissal as frivolous and for failure to state a claim of his complaint alleging that unconstitutional administrative procedures at the Federal Correctional Center Oakdale led to the denial of requests for compassionate release based on the COVID-19 pandemic. Construing Abbott's complaint as asserting

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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claims under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), the district court concluded that dismissal was appropriate because there was no such cause of action under *Bivens*.

Abbott has not briefed any challenge to the district court's dismissal of his *Bivens* claims or the denial of his postjudgment motion; accordingly, he has waived review of those rulings. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). Rather, he contends that the district court erred in construing his complaint as arising under *Bivens*, where the basis for jurisdiction was 28 U.S.C. § 1331 and the governing law was the Administrative Procedure Act (APA). We review the dismissal of a complaint under 28 U.S.C. § 1915A(b)(1) as both frivolous and for failure to state a claim de novo. *Green v. Atkinson*, 623 F.3d 278, 280 (5th Cir. 2010).

After careful consideration of the record, we discern no error in the district court's dismissal of Abbott's complaint, whether his claims are construed under *Bivens* or the APA. Accordingly, the judgment of the district court is AFFIRMED. Abbott's motion for appointment of counsel on appeal is DENIED. *See Ulmer v. Chancellor*, 691 F.2d 209, 212-13 (5th Cir. 1982).