

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-41031
Conference Calendar

FELIX AARON MILLER,

Plaintiff-Appellant,

versus

KAY SHIRLEY,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:00-CV-211

December 13, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Felix Miller, Texas prisoner # 555749, appeals the district court's dismissal without prejudice of his 42 U.S.C. § 1983 complaint for failure to exhaust administrative remedies. Miller argues the merits of his § 1983 claims but does not address the district court's dismissal for failure to exhaust. He has thus abandoned the exhaustion issue on appeal. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993).

Because Miller fails to address the only issue on appeal, his appeal lacks arguable merit, and the appeal is therefore

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

DISMISSED AS FRIVOLOUS. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2.

Miller has more than three-strikes against him, and, after Miller sought in forma pauperis status for his current appeal, the three-strikes bar of 28 U.S.C. § 1915(g) was imposed against him in a previous appeal. See Miller v. Lloyd, No. 00-10625 (5th Cir. Oct. 17, 2000) (unpublished). We remind Miller that he cannot proceed in forma pauperis in the district court or on appeal except in cases in which he is under imminent danger of serious physical injury. See § 1915(g); Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir. 1996).

DISMISSED AS FRIVOLOUS.