

December 30, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-20606
Summary Calendar

JOSE VALENTINE,

Plaintiff-Appellant,

versus

ADRIAN M. THOMAS, Correctional Lieutenant;
JAMES D. RUBY, Sergeant of Correctional
Officers; CAREY S. STAPLES, Assistant
Warden; SENIOR WARDEN LAUGHLIN; MAJOR RICE,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:04-CV-1951

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

Jose Valentine, Texas prisoner # 113104, appeals the district court's dismissal as frivolous of his 42 U.S.C. § 1983 complaint. He asserts that Lieutenant Thomas used excessive force against him by pushing him into a filing cabinet, resulting in a bruise on his thigh, which did not require medical treatment, although he was given ibuprofen. Valentine has not established that he suffered an injury that was more than de

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

minimis. See Hudson v. McMillian, 503 U.S. 1, 9-10 (1992); Gomez v. Chandler, 163 F.3d 921, 924 (5th Cir. 1999). The district court did not abuse its discretion in dismissing this claim. See Siglar v. Hightower, 112 F.3d 191, 193 (5th Cir. 1997).

Valentine does not argue on appeal that the district court abused its discretion in dismissing his claims against the defendants not physically present for the assault or in refusing to consider his state law claims of assault. These claims are therefore deemed abandoned. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). The judgment of the district court is thus AFFIRMED.