

FILED

July 30, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 07-20015
Summary Calendar

GARY CLYDE DANIELS

Plaintiff-Appellant

v.

MRS JO BEASLEY, PCA Nurse; MRS BARBARA HOLLNAGEL; MRS
THERESA PLACE; UNIVERSITY OF TEXAS MEDICAL BRANCH; MR
ROBERTS, Physician Assistant Nurse; RANDALL HEALY

Defendants-Appellees

GARY CLYDE DANIELS

Plaineiff-Appellant

v.

JO BEASLEY; BARBARA HOLLNAGEL; THERESA PLACE; UNIVERSITY
OF TEXAS MEDICAL BRANCH; MR ROBERTS

Defendants-Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:06-CV-3246
USDC No. 4:06-CV-3284

Before REAVLEY, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Gary Clyde Daniels, Texas prisoner # 579867, appeals from the dismissal of his civil rights suit in which he alleged that the defendants were deliberately indifferent to his serious medical needs. The district court concluded that the suit was frivolous.

Daniels argues that defendant Beasley gave him the wrong medication, which resulted in excessive sleep, a loss of appetite, and a temporary loss of vision. Daniels has not challenged the district court's conclusion that the other named defendants were not personally involved in the submission of the wrong medication, and any such claim is abandoned. See *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). With respect to Beasley, Daniels has not established that her actions involved more than negligence. See *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991). Additionally, Daniels has not shown that his injuries were more than de minimis. See 42 U.S.C. § 1997e(e); *Siglar v. Hightower*, 112 F.3d 191, 193 (5th Cir. 1997).

Daniels's appeal is without arguable merit and is frivolous. See *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is dismissed. See 5TH CIR. R. 42.2. Daniels is cautioned that the dismissal of this appeal as frivolous, and the district court's dismissal of his complaint as frivolous, count as strikes under 28 U.S.C. § 1915(g). See *Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). He is cautioned that if he accumulates three strikes under § 1915(g), he will be unable to proceed in forma pauperis (IFP) in any civil action or appeal filed while he is incarcerated or detained in

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

any facility unless he is under imminent danger of serious physical injury. See § 1915(g).

APPEAL DISMISSED; SANCTION WARNING ISSUED.