

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 21, 2008

No. 07-30508
Conference Calendar

Charles R. Fulbruge III
Clerk

THOMAS LANDRY

Plaintiff-Appellant

v.

LYNN COOPER

Defendant-Appellee

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:06-CV-2344

Before KING, BARKSDALE, and OWEN, Circuit Judges.

PER CURIAM:*

Thomas Landry, Louisiana prisoner # 327969, appeals the district court's dismissal, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), (ii), of his in forma pauperis (IFP) complaint seeking damages for injuries he received in an attack by another inmate. Landry asserts that his injuries were the result of inadequate supervision and Warden Lynn Cooper's negligence. Landry's arguments are not supported by citation to the record or relevant legal authority. See *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). Moreover, he has wholly failed to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

show that the district court's dismissal of his complaint was error as his claims sound in negligence and seek to hold Warden Cooper liable for his employees' actions. See *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991); *Williams v. Luna*, 909 F.2d 121, 123 (5th Cir. 1990).

The appeal is without arguable merit and, thus, 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. The district court's dismissal of Landry's complaint and this court's dismissal of his appeal both count as strikes for purposes of § 1915(g). See *Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Landry is warned that if he accumulates three strikes, he will no longer be allowed to proceed IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious physical injury. See § 1915(g).

APPEAL DISMISSED. SANCTION WARNING ISSUED.