

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40740
Conference Calendar

MARLEX LEJON JOHNSON,

Plaintiff-Appellant,

versus

UNIDENTIFIED BROWN, Doctor, Gregg County
Jail; UNIDENTIFIED SHIRLEY, Nurse/LVN, Gregg
County Jail; UNIDENTIFIED BECKY, LVN, Gregg
County Jail,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6-96-CV-97
- - - - -
February 20, 1997

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:*

Marlex Lejon Johnson, a Texas prisoner (# 683867), appeals the magistrate judge's dismissal of his 42 U.S.C. § 1983 civil rights complaint as frivolous, following an evidentiary hearing pursuant to Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985). The magistrate judge did not abuse her discretion either in refusing to allow Johnson to amend his complaint after the hearing or in allowing an attorney for the defendants to cross-examine him during the hearing. See Adams v. Hansen, 906 F.2d

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

192, 194 (5th Cir. 1990); Wilson v. Barrientos, 926 F.2d 480, 483 (5th Cir. 1991). Otherwise, the magistrate judge correctly ruled that Johnson failed to state a cognizable claim that the defendants were "deliberately indifferent" to his medical needs. See Johnson v. Brown, et al., No. 6:96-CV-97 (E.D. Tex. Jun. 19, 1996).

This appeal is without arguable merit and is 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. We caution Johnson that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Johnson is further cautioned to review all pending appeals to ensure that they do not raise arguments that are frivolous.

DISMISSED; SANCTIONS WARNING ISSUED.