

CORRECTED

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

February 14, 2008

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No. 07-30146  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

JULES DUPERON

Plaintiff-Appellant

v.

DARRYL MIZELL, Lieutenant; DAVID EDWARDS, Sergeant; JOSHUA MILEY,  
Sergeant; SERGEANT RONNIE SPEARS

Defendants-Appellees

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:06-CV-3325

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Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Jules Duperon appeals the dismissal of his 42 U.S.C. § 1983 suit alleging that several correctional officers at Washington Correctional Institute violated his civil rights by beating him. Specifically, he argues that the magistrate judge erred in dismissing his suit for failure to prosecute. The Government counters

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that we need not consider whether the dismissal for failure to prosecute was proper because Duperon has failed to challenge the dismissal on the independent ground that he failed to state a claim upon which relief may be granted. Because Duperon has failed to make an argument pursuant to FED. R. APP. P. 28(a)(9)(A) challenging the dismissal of his suit for failure to state a claim, he is deemed to have abandoned the issue. See *Royal Ins. Co. of Amer. v. Caliber One Indem. Co.*, 465 F.3d 614, 621 n.34 (5th Cir. 2006); *Geiger v. Jowers*, 404 F.3d 371, 373 n.6 (5th Cir. 2005).

AFFIRMED.