

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

F I L E D

October 1, 2009

No. 09-30116
Summary Calendar

Charles R. Fulbruge III
Clerk

GREGORY DON SEARLS,

Plaintiff-Appellant

v.

CORRECTIONS CORPORATION OF AMERICA; WINN CORRECTIONAL CENTER; TIMOTHY WILKINSON; KATHY RICHARDSON; PAT THOMAS; DR. PACHECO,

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:08-CV-889

Before DAVIS, SMITH and DENNIS, Circuit Judges.

PER CURIAM:^{*}

Gregory Don Searls, Louisiana prisoner # 119196, has filed a motion for leave to proceed in forma pauperis (IFP) on appeal. The district court denied Searls's IFP motion and certified that the appeal was not taken in good faith. By moving for IFP status, Searls is challenging the district court's certification.

See Baugh v. Taylor, 117 F.3d 197, 202 (5th Cir. 1997).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Aside from conclusional allegations, Searls does not challenge the district court's determination that he failed to present an arguable or nonfrivolous issue for appeal. Further, Searls does not challenge the district court's determination that his 42 U.S.C. § 1983 action is moot nor does he provide sufficient facts to support his Eighth Amendment claim against all the defendants. Therefore, these issues are deemed abandoned. *See Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Searls has not shown that the district court's certification was incorrect. The instant appeal is without arguable merit and is thus frivolous. Accordingly, Searls's IFP motion is denied, and his appeal is dismissed as frivolous. *See Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2.

The dismissal of this appeal as frivolous counts as one strike under 28 U.S.C. § 1915(g). Searls previously accumulated two strikes for filing frivolous § 1983 actions. *See Searls v. Louisiana*, No. 2:08-cv-04050-JCZ (E.D. La. Mar. 13, 2009); *Searls v. Lee*, No. 2:03-cv-01001-ML (E.D. La. Apr. 29, 2003). Searls is now barred from proceeding IFP pursuant to § 1915 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).

MOTION DENIED; APPEAL DISMISSED; 28 U.S.C. § 1915(g) BAR IMPOSED.