

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

April 26, 2022

Lyle W. Cayce  
Clerk

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No. 21-10053

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REYCE COOK,

*Plaintiff—Appellant,*

*versus*

TTUHSC MEDICAL PERSONNEL; RALPH ROSILES; NFN NLN,  
*Unknown Medical Personnel*; SERGEANT NFN REYES; LIEUTENANT  
NFN WILKERSON; TDCJ OFFICIALS,

*Defendants—Appellees.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 5:20-CV-71

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Before SOUTHWICK, GRAVES, and COSTA, *Circuit Judges*.

PER CURIAM:\*

Reyce Cook, Texas prisoner # 1804354, seeks leave to appeal in forma pauperis (IFP) from the dismissal of his civil action for failure to state a claim under 42 U.S.C. § 1983 or the Americans with Disabilities Act (ADA). *See*

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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28 U.S.C. §§ 1915, 1915A. He only contention is that defendants were deliberately indifferent to his medical needs on the day he suffered a heat-related illness.

The magistrate judge who decided the case by consent of the parties, correctly ruled that Cook failed to meet the extremely difficult standard for showing deliberate indifference. *See Brewster v. Dretke*, 587 F.3d 764, 770 (5th Cir. 2009); *Gobert v. Caldwell*, 463 F.3d 339, 345 (5th Cir. 2006). Cook has abandoned the ADA claim and any other potential issues by failing to brief them. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

Because Cook fails to present any nonfrivolous issue for appeal, his IFP motion is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.24 (5th Cir. 1997); 5TH CIR. R. 42.2. Cook's motion to appoint counsel is also DENIED.

The district court's dismissal of the action for failure to state a claim and this court's dismissal of the appeal as frivolous count as strikes under § 1915(g). *See Coleman v. Tollefson*, 575 U.S. 532, 537 (2015). Research reveals that Cook already had three strikes. Accordingly, Cook is BARRED from proceeding 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). Cook is WARNED that any pending or future frivolous or repetitive filings in this court or any court subject to this court's jurisdiction may subject him to additional sanctions, including monetary sanctions and limits on his access to court.