

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40036
Summary Calendar

HAROLD BUDDY REESE

Plaintiff-Appellant,

versus

HERRERA, DR.; WOODCROFT, MR.;
CONNORS, Captain; MORRIS, Major,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-00-CV-223

August 14, 2001

Before GARWOOD, JOLLY and JONES, Circuit Judges.

PER CURIAM:*

Harold Buddy Reese, Texas state prisoner #523110, appeals from the magistrate judge's dismissal of his civil rights complaint filed pursuant to 42 U.S.C. § 1983 as frivolous and for failure to state a claim. See 28 U.S.C. § 1915A(b)(1). A *sua sponte* dismissal for failure to state a claim is reviewed by this court

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 R. 47.5 the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

under a *de novo* standard of review. *Ruiz v. United States*, 160 F.3d 273, 274-75 (5th Cir. 1998); *Black v. Warren*, 134 F.3d 732, 733-34 (5th Cir. 1998).

Reese's allegations, at best, amount to mere negligence and do not constitute deliberate indifference to his serious medical needs. Accordingly, Reese has no viable section 1983 claim. See *Gibbs v. Grimmette*, 2001 WL 672741 (5th Cir. 2001); *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991). The judgment of the district court therefore is

AFFIRMED.