

January 4, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-10644
Summary Calendar

PAIGE L. BENNER,

Plaintiff-Appellant,

versus

DEE ANDERSON, Sheriff, Tarrant County;
NFN ALVARADO, Supervisor, Mid States Food Service,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:04-CV-281-Y

Before GARWOOD, STEWART and PRADO, Circuit Judges.

PER CURIAM:*

Paige L. Benner, Texas prisoner # 0220654, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint pursuant to 28 U.S.C. § 1915(e)(2). He asserted in the district court that despite being medically ordered to follow a sodium-free diet, he was served items containing sodium. The district 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 R. 47.5 the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

construed this claim as a challenge to Benner's conditions of confinement; however, if the allegations are liberally construed, they conclusorily assert deliberate indifference to his serious medical needs.

Nevertheless, Benner's factual allegations do not reflect that the defendants showed such deliberate indifference. See *Farmer v. Brennan*, 511 U.S. 825, 842, 847 (1994)); *Bickford v. Int'l Speedway Corp.*, 654 F.2d 1028, 1031 (5th Cir. 1981). As the district court correctly observed, the week's menu list attached by Benner to the complaint, with salt items circled by Benner, reflect several other items at each meal not circled nor otherwise alleged to contain salt (nor self-evidently containing it). The judgment of the district court is thus

AFFIRMED.