

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-11214
Conference Calendar

DARYL THOMAS,

Plaintiff-Appellant,

versus

PHILIP L. RUSH,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:95-CV-299
- - - - -

April 17, 1996

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Daryl Thomas appeals the district court's dismissal of his 42 U.S.C. § 1983 civil rights suit as frivolous pursuant to 28 U.S.C. § 1915(d). Thomas' allegations that Dr. Rush incorrectly assessed his vision impairment, conducted an inadequate examination, and failed to prescribe glasses are insufficient to give rise to a § 1983 cause of action. See Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Thomas does not allege acts by Dr. Rush "sufficiently harmful to evidence deliberate

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

indifference to serious medical needs." See Estelle v. Gamble, 429 U.S. 97, 106 (1976). The district court did not abuse its discretion in dismissing Thomas' claim against Dr. Rush as frivolous under § 1915(d) because it has no basis in law. See Denton v. Hernandez, 504 U.S. 25, 31-34 (1992).

Thomas' motion to supplement the record is DENIED.
AFFIRMED.