

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 95-60394
Summary Calendar

STANLEY NASH,

Plaintiff-Appellant,

VERSUS

MISSISSIPPI DEPARTMENT OF CORRECTIONS; CLEOPHUS WALKER,

Defendants-Appellees.

Appeal from the United States District Court
For the Southern District of Mississippi
(3:94 CV348LN)

December 27, 1995

Before HIGGINBOTHAM, DUHÉ, and EMILIO M. GARZA, District Judges.

PER CURIAM:¹

Mississippi State prisoner Stanley Nash sued the Mississippi Department of Corrections and Captain Cleophus Walker for money damages under 42 U.S.C. § 1983 allegedly arising from physical injuries sustained while incarcerated. The district court granted Defendant's motion for summary judgment finding that Nash had

¹ Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

failed to exhaust administrative remedies. Nash appeals. We affirm, but for different reasons.

The district court erred in granting the Defendant's motion for summary judgment based on Nash's failure to exhaust administrative remedies. Since he seeks only monetary relief, which is not available through the Mississippi Administrative Review Procedure, exhaustion was not required. Marsh v. Jones, 53 F.3d 707, 710 (5th Cir. 1995); Mississippi Code Ann. §§ 47-5-801-807 (1995). We affirm, however, because the record makes clear that Nash suffered an accidental injury for which he received appropriate medical treatment. Thus, his claim of a constitutional violation lacks an arguable factual basis. Farmer v. Brennan, 114 S.Ct. 1970, 1979 (1994). We therefore affirm the result on these grounds. See Bickford v. International Speedway Corp., 654 F.2d 1028, 1031 (5th Cir. 1981).

AFFIRMED.