

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40013
Summary Calendar

RICHARD WAYNE KOEPKE,

Plaintiff-Appellant,

versus

RUSSELL MCDONALD, Medical
Director, Mark Stiles Unit;
UNIT MEDICAL DIRECTOR, Mark
Stiles Unit; MICHAEL WARREN,
TDCJ Chief Medical Director,

Defendants-Appellees.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:96-CV-591
- - - - -

March 31, 1998

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Richard Wayne Koepke, Texas prisoner #602053, appeals the dismissal of his 42 U.S.C. § 1983 complaint for failure to exhaust his administrative remedies. We have reviewed the record and HOLD that the record amply demonstrates that the appellees were not deliberately indifferent to Koepke's serious medical needs. Estelle v. Gamble, 429 U.S. 97, 106 (1976) (plaintiff

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

"must allege acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs."); Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991) (unsuccessful medical treatment, negligent medical treatment, or medical malpractice does not give rise to a § 1983 cause of action); Hanchey v. Energas Co., 925 F.2d 96, 97 (5th Cir. 1990) (appellate court may affirm district court's decision on alternative grounds).

All outstanding motions are DENIED.

AFFIRMED.