

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-41068  
Summary Calendar

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JAMES FAGAN,

Plaintiff-Appellant,

versus

LUCINDA L. CONRAD; TOMMY E. THOMAS, Officer at  
Michael Unit; BILLY J. SCARBOROUGH, Officer at  
Michael Unit,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:97-CV-61

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June 30, 1998

Before WIENER, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

James Fagan, Texas prisoner #404390, appeals the magistrate judge's adverse summary judgment, dismissing his 42 U.S.C. § 1983 action. Fagan contends, *inter alia*, that the defendants were deliberately indifferent to his serious medical needs (broken jaw) by delaying medical treatment for over two hours.

Needless to say, we review a summary judgment *de novo*, applying the same standard as the district court. See *Little v.*

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

*Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994)(en banc). Summary judgment is proper where there is no material fact issue and the movant is entitled to judgment as a matter of law. *Id.*; see FED.R.CIV.P. 56(c).

Having reviewed the record and the briefs of the parties, we **AFFIRM** for essentially the reasons stated by the magistrate judge. *Fagan v. Conrad*, No. 6:97-CV61 (E.D. Tex. Aug. 21, 1997). Fagan's motions for a "default judgment" and for appointment of appellate counsel are **DENIED**.

**JUDGMENT AFFIRMED; MOTIONS FOR DEFAULT JUDGMENT AND  
APPOINTMENT OF COUNSEL DENIED**