

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-20356  
Summary Calendar

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ANTHONY GARY BAINES,

Plaintiff-Appellant,

versus

ROCHELLE MCKINNEY; DR. DAO; M.W. MOORE;  
JOE FERNALD, Warden; JOY BLACK;  
GLENDA ADAMS, DR.; MARY ADAMS,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-95-CV-4122

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February 2, 2000

Before HIGGINBOTHAM, DeMOSS and STEWART, Circuit Judges:

PER CURIAM:\*

Anthony Gary Baines appeals the district court's grant of summary judgment in favor of the defendants-appellees.

Baines argues that the district court erred by viewing the summary judgment evidence in the light most favorable to the movants and by granting summary judgment before allowing Baines to complete discovery. Baines also argues that the district court erred in denying him leave to amend his complaint.

We have reviewed the record and briefs filed by the parties and find that Baines has

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

essentially asserted medical malpractice claims which are insufficient to give rise to a § 1983 cause of action. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Because summary judgment was properly granted, we agree with the district court that Baines' proposed amendment would have be futile. See Ashe v. Corley, 992 F.2d 540, 542 (5th Cir. 1993).

AFFIRMED.