

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 21, 2007

Charles R. Fulbruge III
Clerk

No. 06-10903
Summary Calendar

JOEL LYNN HOTCHKISS

Plaintiff-Appellant

v.

CURTIS NEEL; GALE PEARCE

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:05-CV-1970

Before REAVLEY, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Joel Lynn Hotchkiss, Texas prisoner, # 1164129, appeals the district court's grant of summary judgment to the defendants, Curtis Neel and Gale Pearce, in his 42 U.S.C. § 1983 civil rights suit. Hotchkiss alleges that Neel and Pearce were deliberately indifferent to his medical needs because they refused to treat a boil that developed on the base of his neck, in violation of the Eighth Amendment.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Hotchkiss argues that the district court erred in dismissing his claims on the grounds that Neel and Pearce were entitled to qualified immunity on his individual claims and were not liable under the doctrine of respondeat superior. The record evidence supports the district court's conclusion that the defendants did not demonstrate deliberate indifference to Hotchkiss's medical condition. See *Estelle v. Gamble*, 429 U.S. 97, 105-06 (1976). Because Hotchkiss can not show the violation of a clearly established constitutional right, Neel and Pearce are entitled to qualified immunity. See *Mace v. City of Palestine*, 333 F.3d 621, 623 (5th Cir. 2003). Hotchkiss's claim regarding supervisory liability is likewise unavailing because there is no such liability in § 1983 suits. See *Stewart v. Murphy*, 174 F.3d 530, 536 (5th Cir. 1999).

The judgment of the trial court is AFFIRMED.