

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-40162
Conference Calendar

WINIFORD LOCKHART,

Plaintiff-Appellant,

versus

UNKNOWN LEE, Female Nurse,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. G-97-CV-492

June 14, 2000

Before JOLLY, DAVIS, and STEWART, Circuit Judges.

PER CURIAM:*

Winiford Lockhart, Texas prisoner #589910, appeals from the dismissal of his civil rights action as frivolous. Lockhart contends that a prison nurse was deliberately indifferent to his serious medical needs when she gave him an overdose of a prescribed medication.

Lockhart's allegations indicate that the nurse was negligent, not that the nurse was deliberately indifferent. *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991). The

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

dismissal of Lockhart's action as frivolous was not an abuse of discretion. *Berry v. Brady*, 192 F.3d 504, 507 (5th Cir. 1999).

AFFIRMED.