

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50608
Summary Calendar

ROZETHIA EVANS, Individually and as
Next Friend of Eric Evans, a Minor Child,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court for
the Western District of Texas
(USDC No. W-99-CV-156)

February 14, 2001

Before REAVLEY, DeMOSS and BENAVIDES, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant Rozethia Evans appeals the district court's order
dismissing her negligence claim and entering summary judgment against her on her

*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should not be published and is not precedent except under the limited circumstances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.

claim of intentional infliction of emotional distress. Because Evans' negligence claim arises out of her husband's assault and battery, it is barred by 28 U.S.C. § 2680(h). Dixon and Lynch undertook nothing more than to perform their military responsibility. Evans did not present sufficient evidence to support her claim of intentional infliction of emotion distress, which she has not pursued on appeal.

Affirmed.