

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-11450
Conference Calendar

MICHAEL D. RODGERS, SR.,

Plaintiff-Appellant,

versus

DALLAS METROCARE SERVICES INC.; JAN STEVENSON;
ROBERT SPENCER; JEFFREY B. RENNER; JOYCE WHEELER;
RICK MATHEWS; ALL OTHER SPECIAL NEEDS OFFENDERS
PROGRAM STAFF; MARYANNE ROMANO, Director,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:01-CV-1165-L

October 30, 2002

Before DeMOSS, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Michael D. Rodgers, Sr., appeals from the district court's order granting summary judgment to the defendants based on res judicata in his civil rights suit. Rodgers alleged in his suit that the defendants violated his civil rights, violated his rights as stated in the Patients Handbook, subjected him to racial profiling, unlawfully denied him medical services, and

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

discriminated against him because of his medical condition. Prior to filing his federal action, Rodgers had filed in state court a nearly identical action against the same defendants, for whom the state court granted summary judgment.

Afforded liberal construction, Rodgers argues on appeal that he lacked a fair opportunity to litigate in state court and that the district court erred in applying res judicata. Under Texas law, res judicata requires proof of the following elements: 1) a prior final judgment on the merits by a court of competent jurisdiction; 2) identity of parties or those in privity with them; and 3) a second action based on the same claims that were raised or could have been raised in the first action. See Amstadt v. United States Brass Corp., 919 S.W.2d 644, 652 (Tex. 1996). After a de novo review, we conclude from the record that res judicata properly applies to this case and that the district court did not err.

AFFIRMED.