

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-10189
Summary Calendar

PATRICK STARLING

Plaintiff - Appellant

v.

TIMOTHY REVELL, DR; CHARLES RIDGE, DR

Defendants - Appellees

Appeal from the United States District Court
for the Northern District of Texas
(USDC No. 2:02-CV-7)

August 15, 2002

Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:*

Patrick Starling, Texas state prisoner #585248, has appealed the dismissal as frivolous of his civil rights action alleging inadequate medical treatment for pain in his shoulder and thigh. We AFFIRM.

Starling contends that the district court abused its discretion by dismissing his action with prejudice. He asserts that that court has determined that his complaint alleges a claim for deliberate indifference to his medical needs, under 42 U.S.C.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 1983. The district court actually held that Starling's claims are frivolous because he did not allege, and cannot make a valid allegation of, deliberate indifference.

Because Starling did not raise the issues of deliberate indifference or seek leave to amend his complaint to so allege, in the district court, this court will not address these issues on appeal. See Reeves v. Collins, 27 F.3d 174, 177 (5th Cir. 1994). Furthermore, we reject Starling's request for remand so that he can allege deliberate indifference because on appeal, he "has presented no more than conclusionary allegations in support of his claim[s]." Booker v. Koonce, 2 F.3d 114, 117, 115-17 (5th Cir. 1993). Therefore the district court's judgment must be AFFIRMED.

IT IS FURTHER ORDERED that Starling's motion for leave to withdraw or amend his brief is DENIED.

MOTION DENIED; JUDGMENT AFFIRMED.