

August 22, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

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No. 02-41611  
Summary Calendar

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BRUCE DARRELL WILLIAMS,

Plaintiff-Appellant,

versus

SUBHASH JOSHI, M.D.; TODD FOXWORTH,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 3:00-CV-65

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Before HIGGINBOTHAM, DAVIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Bruce Darrell Williams, Texas prisoner # 746494, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint as frivolous and for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii). He argues that he broke his hand and that due to the deliberate indifference of Subhash Joshi, M.D., he was denied appropriate medical treatment. Williams asserts that he

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

developed reflex sympathetic distrophy (RSD)\_due to Dr. Joshi's negligence and that surgery will be necessary to correct the problem. Unsuccessful medical treatment, negligence, and medical malpractice are insufficient to give rise to a constitutional violation.<sup>1</sup> Because Dr. Joshi's actions amount at most to negligence or medical malpractice, the district court did not err in dismissing Williams's complaint as frivolous and for failure to state a claim pursuant to § 1915(e)(2)(B)(i) and (ii).<sup>2</sup>

AFFIRMED.

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<sup>1</sup> See *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991).

<sup>2</sup> *Id.*