

August 24, 2005

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 04-41121
Summary Calendar

JOHNNY MARQUEZ DE LA PLATA, II,

Plaintiff-Appellant,

versus

TIMOTHY J. REVELL, Physician; M. AMIR, Physician;
DANIEL GIDEON, Physician; MICHAEL KELLY, MD,
Director of Preventive Medicine; JEAN LOUIS, Doctor;
CLARENCE MOSELY, Senior Warden; FRANKIE RESCANO,
Assistant Warden; ROCHELLE MCKINNEY, RN/Medical
Assistant; UNIDENTIFIED PARTY, Stiles Unit Dietician;
LYNN ALLEN, Grievance Supervisor,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:01-CV-538-HC-WCR

Before REAVLEY, JOLLY and OWEN, Circuit Judges.

PER CURIAM:*

Johnny Marquez De La Plata, II, appeals the summary judgment in favor of the defendants in his 42 U.S.C. § 1983 complaint. In his complaint, De La Plata alleged that he received delayed or inadequate treatment for his hepatitis 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

De La Plata has failed to show a genuine issue for trial with regard to his claim that the defendants were deliberately indifferent to his serious medical needs. See Farmer v. Brennan, 511 U.S. 825, 847 (1994). The summary-judgment evidence showed that De La Plata received medical care for his hepatitis C and any delay in being tested for hepatitis C and/or receiving treatment for his condition could be no more than negligence, which would not rise to the level of a constitutional violation. See Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). His disagreement with his medical treatment also does not establish a constitutional violation. Id. The judgment of the district court is affirmed.

AFFIRMED.