

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-3578
Conference Calendar

DARRYL L. TATE,

Plaintiff-Appellant,

versus

SUSAN BANKSTON, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. CA-92-90-A-M2
- - - - -

March 18, 1993

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Darryl L. Tate, a Louisiana state prisoner, filed a § 1983 complaint alleging that prison officials were deliberately indifferent to his serious medical needs because he was assigned to an outdoor work detail despite his severe epileptic condition. He also filed a motion for a preliminary injunction requiring prison officials to assign him to a limited duty indoor work detail. The district court denied the motion.

This Court reviews the district court's denial of a preliminary injunction for an abuse of discretion. Black Fire

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Fighters Ass'n v. City of Dallas, Tex., 905 F.2d 63, 65 (5th Cir. 1990). To obtain a preliminary injunction the moving party must demonstrate (1) irreparable injury; (2) substantial likelihood of success on the merits; (3) a favorable balance of hardships; and (4) no adverse effect on the public interest. Id. The denial of the preliminary injunction is proper if the movant has failed to sufficiently establish any one of the four criteria. Id.

To state a medical claim cognizable under § 1983, a state prisoner must allege acts or omissions sufficiently harmful to evidence a deliberate indifference to serious medical needs. Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976). Tate contends that his duty status places him in danger because he potentially could choke on his tongue, but he does not state any specific instances in which his life was in danger while he was working in the fields. His allegations amount to nothing more than a disagreement with the prison doctors' medical opinions and do not state a constitutional claim. See Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Tate has not demonstrated irreparable injury or likelihood of success on the merits; the district court did not abuse its discretion by denying Tate's motion for a preliminary injunction.

AFFIRMED.