

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-4316
Conference Calendar

HOWARD BLAYLOCK,

Plaintiff-Appellant,

versus

J.B. SMITH, Sheriff of Smith
County, Texas, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:91-CV-00582
- - - - -
(January 22, 1993)

Before GARWOOD, SMITH, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Howard Blaylock (Blaylock) appeals the dismissal of his civil-rights complaint as frivolous. We will disturb a district court's dismissal of a pauper's complaint as frivolous only on finding an abuse of discretion. A district court may, sua sponte, dismiss a pauper's complaint as frivolous only "where it lacks an arguable basis either in law or in fact." Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1733-34, 118 L.Ed.2d 340 (1992)(quoting Neitzke v. Williams, 490 U.S. 319, 325 (1989)).

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

"[P]retrial detainees [generally] are entitled to reasonable medical care[.]" Cupit v. Jones, 835 F.2d 82, 85 (5th Cir. 1987). Lester and jail officials provided Blaylock with pain-killers and other medication. Lester apparently prescribed an extra mattress for Blaylock. Blaylock asserts that he was not supposed to take Motrin and that he was mistakenly given ulcer medication. He did not allege in his original complaint and two amended complaints that he was ever harmed by the two medications beyond having headaches and an upset stomach. Lester's treatment, while perhaps unsuccessful, was not unreasonable. Nor was the jail's treatment of Blaylock unreasonable. Jail officials responded promptly to Blaylock's requests. They took him to see Lester after the medication they provided failed to rid Blaylock of his pain. Insofar as Blaylock complains of his confinement in the holding cell, he cannot recover. That confinement was brief and fails to rise to the level of a constitutional violation. See Pfannstiel v. City of Marion, 918 F.2d 1178, 1186-87 (5th Cir. 1990).

Attorney Buck Files represented Smith County. He thus was not Blaylock's attorney. Blaylock's mail to Files was not protected from being opened by prison officials. See Taylor v. Sterrett, 532 F.2d 462, 474 (5th Cir. 1976). Blaylock's access-to-the-courts contention therefore is frivolous.

AFFIRMED.