

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1621
Conference Calendar

DONALD RAY WALKER,

Plaintiff-Appellant,

versus

D.L. KEESE, Sheriff,
Lubbock County, Texas,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:93-CV-162-C
- - - - -

October 27, 1993

Before POLITZ, Chief Judge, and SMITH and WIENER, Circuit Judges.

PER CURIAM:*

Donald Ray Walker argues that he has been denied adequate medical care by prison officials and the prison medical staff.

A complaint may be dismissed as frivolous if it lacks an arguable basis in law or in fact. Denton v. Hernandez, __U.S.__, 112 S.Ct. 1728, 1733, 118 L.Ed.2d 340 (1992). The dismissal of a complaint is reviewed for an abuse of discretion. Id. at 1734.

Walker does not state whether he is a pretrial detainee or a convicted prisoner. "[P]retrial detainees are entitled to

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

reasonable medical care unless the failure to supply that care is reasonably related to a legitimate governmental objective." Cupit v. Jones, 835 F.2d 82, 85 (5th Cir. 1987). The relevant inquiry "is whether the denial of medical care was objectively reasonable in light of the Fourteenth Amendment's guarantee of reasonable medical care and prohibition on punishment of pretrial detainees." Fields v. City of South Houston, Tex., 922 F.2d 1183, 1191 (5th Cir. 1991) (citation omitted). A detainee's medical care could be classified as unreasonable if he advised jail officials of his need for medication or treatment and "they did not have him examined or otherwise adequately respond to his requests." Thomas v. Kippermann, 846 F.2d 1009, 1011 (5th Cir. 1988).

A convicted inmate is required to show that his denial of medical care "constituted `deliberate indifference to serious medical needs.'" Mayweather v. Foti, 958 F.2d 91, 91 (5th Cir. 1992) (citation omitted). The district court relied on the "deliberate indifference" standard of medical care which is the standard applicable to convicted prisoners. However, the district court also determined that Walker received medical care and that Walker merely disagreed with the course of treatment prescribed by the prison medical staff.

Whether Walker was a pre-trial detainee or a convicted inmate is not pivotal because the record reflects that the prison officials responded to his complaints and provided him with reasonable medical care. The fact that a prisoner may continue to experience pain despite receiving reasonable medical treatment

does not demonstrate the occurrence of a constitutional violation. Id. at 91.

Walker's complaint does not state an arguable basis in fact for a § 1983 claim. Therefore, the district court's dismissal of the complaint was not an abuse of discretion. The appeal is DISMISSED as frivolous. See 5th Cir. R. 42.2.