IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1745 c/w 93-9003
Conference Calendar

CARL THOMAS CORTE,

Plaintiff-Appellant,

versus

HERMAN SCHAFFER, Doctor at TDCJ
Robertson Unit, ET AL.,

Defendants-Appellees.

consolidated with

CARL THOMAS CORTE,

Plaintiff-Appellant,

versus

WEI-LIN JUNG, M.D.,

Defendant-Appellee.

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Appeals from the United States District Court
for the Northern District of Texas
USDC No. 1:93-CV-048-C, 1:93-CV-109

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(May 18, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Carl Thomas Corte appeals the judgments of the district court granting summary judgment in favor of the defendants in his civil rights action. According to Corte, if the district court had considered his memorandum in opposition to summary judgment

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

and his supporting affidavits and resolved all ambiguities and inferences in his favor, the grant of summary judgment would have been precluded. Corte contends that the district court erred in relying on Varnado v. Lynaugh, 920 F.2d 320 (5th Cir. 1991), for the proposition that "[n]either unsuccessful nor negligent medical treatment nor mistaken medical judgment implicates the Eighth Amendment." He argues that his case involves the denial of any medical treatment whatsoever.

"Summary judgment is reviewed de novo, under the same standards the district court applies to determine whether summary judgment is appropriate." Amburgey v. Corhart Refractories Corp., 936 F.2d 805, 809 (5th Cir. 1991). Summary judgment is proper when viewing the evidence in the light most favorable to the non-movant, "`there is no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law.'" Id. (quoting Fed. R. Civ. P. 56(c)).

In order to state a cognizable claim of a constitutional violation in the medical sense, prisoners must show that prison officials had a deliberate indifference to their serious medical needs, constituting unnecessary and wanton infliction of pain. Estelle v. Gamble, 429 U.S. 97, 104-06, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976); Green v. McKaskle, 788 F.2d 1116, 1121 (5th Cir. 1986). Deliberate indifference entails wanton actions. Johnson v. Treen, 759 F.2d 1236, 1238 (5th Cir. 1985). It is not enough that the plaintiff is dissatisfied with the medical treatment he receives or that he alleges mere negligence. Varnado, 920 F.2d

at 321.

Corte's arguments amount to no more than a disagreement with the treatment he received. In their respective motions for summary judgment, the defendants provided medical evidence that Corte had been seen by prison medical personnel approximately 119 times. Dr. Schaffer submitted an affidavit stating that Corte had undergone numerous gastrointestinal tests and a chest x-ray and that all of the results were within normal range. In his brief on appeal, Corte admits that, after his arrival at French Robertson Unit, Dr. Schaffer ordered an HIV test, a CBC blood test, and a chest x-ray; Dr. Jung tested him for parasites; and he received medication for the treatment of epileptic seizures. He views this attention to his medical needs as "no treatment" because it was readily apparent to a reasonable person or doctor that his condition warranted a referral to a gastroenterologist for diagnosis and treatment. Corte has not demonstrated that the defendants took any wanton action that amounted to deliberate indifference to his serious medical needs.

Because the defendants carried their summary judgment burdens and Corte has not set forth specific facts showing the existence of a genuine issue for trial, the judgments of the district court granting the defendants' motions for summary judgment are AFFIRMED. See Celotex Corp. v. Catrett, 477 U.S. 317, 325, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). The motions for injunctive relief, appointment of an expert, and appointment of counsel are DENIED.