

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1811
Conference Calendar

RICKY HALL,

Plaintiff-Appellant,

versus

SHERIFF OF LUBBOCK
COUNTY, TEXAS, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:93-CV-217-C
- - - - -

October 27, 1993

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

PER CURIAM:*

Ricky Hall, a prisoner at the Lubbock County Jail proceeding pro se and in forma pauperis in the instant civil rights action, argues on appeal that he was denied adequate medical attention in violation of his constitutional rights.

It is not clear from the record whether Hall was a pretrial detainee or a convicted prisoner during the events that form the basis of his complaint. This distinction is potentially dispositive to the instant action. As a pretrial detainee making

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

a claim for inadequate medical care, Hall is protected by the Fourteenth Amendment's Due Process Clause, not the Eighth Amendment's prohibition against cruel and unusual punishment. See Cupit v. Jones, 835 F.2d 82, 85 (5th Cir. 1987). "[P]retrial detainees are entitled to reasonable medical care unless the failure to supply it is reasonably related to a legitimate government objective." Fields v. City of South Houston, Tex., 922 F.2d 1183, 1191 (5th Cir. 1991) (internal quotations and citation omitted).

Under this standard, the "reasonableness" of the medical care received by Hall simply cannot be determined from the existing record. He alleges that he was in great pain, but did not receive medical attention for four days. The record is silent regarding the extent of Hall's injury, the doctor's diagnosis, how long Hall's pain persisted, or how serious it actually was.

Each of these facts relate directly to the reasonableness of the care received by Hall, creating factual questions which cannot be resolved by the existing record. Because Hall may have been a pretrial detainee, the district court abused its discretion by dismissing Hall's action as frivolous. We remind of the direction of this Court in Moore v. Mabus, 976 F.2d 268, 270-71 (5th Cir. 1992), where we held that a lack of factual development, coupled with "an inadequate statement of reasons for the dismissal" of a pro se, IFP plaintiff's complaint, requires the reversal of a 1915(d) dismissal.

Therefore, the judgment is VACATED and the cause REMANDED for further factual development consistent herewith.