

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7095
Conference Calendar

WILLIE L. ATTERBERRY,

Plaintiff-Appellant,

versus

SHERIFF GENE WALTERS ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. CA H92-0026-P-N
- - - - -
(March 24, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Willie L. Atterberry, a pretrial detainee in the Forrest County Regional Jail Complex in Hattiesburg, Mississippi, filed a complaint under 42 U.S.C. § 1983. Following an evidentiary hearing held pursuant to 28 U.S.C. § 636(b)(1)(B), the district court dismissed Atterberry's suit with prejudice because he failed to meet his burden of proof regarding his allegations.

As a pretrial detainee, Atterberry was protected by the Due Process Clause of the Fourteenth Amendment, rather than by the

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Eighth Amendment's prohibition against cruel and unusual punishment. Morrow v. Harwell, 768 F.2d 619, 625 (5th Cir. 1985). "[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, 922 F.2d 1183, 1191 (5th Cir. 1991) (quotation and citation omitted). In Daniels v. Williams, 474 U.S. 327, 328, 106 S.Ct. 662, 88 L.Ed.2d 662 (1986), the Supreme Court held "that the Due Process Clause is simply not implicated by a negligent act of an official causing unintended loss of or injury to life, liberty, or property."

The thrust of Atterberry's argument on appeal is that Dr. Walker did not treat him properly for diabetes. Atterberry's assertion on appeal, distilled to its essence, is that Dr. Walker's treatment was negligent. Claims of negligence are insufficient to support Atterberry's claim. Daniels, 474 U.S. at 328.

Atterberry contends that the district court erred in not providing him with a transcript of the evidentiary hearing at Government expense. A transcript must be provided at Government expense if it is necessary for the proper disposition of the appeal. See Harvey v. Andrist, 754 F.2d 569, 571 (5th Cir.), cert. denied, 471 U.S. 1126 (1985). Although the district court's dismissal of the action was based on the facts presented at the evidentiary hearing, the arguments presented by Atterberry are not based on factual disputes. Atterberry has not provided

the Court with anything to support his assertion that he required a transcript to prepare his appeal.

Finally, Atterberry makes a vague assertion that the magistrate judge somehow misled him into dismissing the claims against Sheriff Walters. Even if the sheriff could have been held liable for a constitutional violation with respect to Atterberry's treatment while in the Forrest County Jail, as shown above, there was no violation.

AFFIRMED.