

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7342
Summary Calendar

OSCAR SAYLES,

Plaintiff-Appellant,

versus

TERRY THOMAS, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the
Northern District of Mississippi
(CA GC89-359-S-D)

(May 18, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Plaintiff-appellant Oscar Sayles, a prisoner in custody of the Mississippi State Penitentiary at Parchman, filed a 42 U.S.C. § 1983 complaint against prison officials, alleging cruel and unusual punishment. After a bench trial, the district court entered a take nothing judgment. Because we find no error, we affirm.

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

I

On September 18, 1989, Sayles was allegedly attacked by several correctional officers while Sayles was in the prison bathroom. According to Sayles, these officers harassed him, beat him with a broken broom handle, poured shaving powder on his head, sprayed window cleaner in his face, and then poured water over his head. The water caused the shaving powder and window cleaner to drip into Sayles's eyes, causing irritation and burning. After Sayles complained that his eyes were burning, a correctional officer shoved Sayles's head into the sink to wash the shaving powder and window cleaner off of Sayles's head and out of his eyes. According to Sayles, however, he continued to suffer eye irritation, which required medical treatment. Sayles now contends that he has suffered permanent eye damage as a result of the incident and because prison officials denied him access to medical treatment.

II

On October 30, 1989, Sayles filed a prisoner complaint, alleging that his treatment constituted cruel and unusual punishment, and that he sustained permanent injuries as a result of that conduct. After a bench trial, the district court weighed the conflicting evidence and entered a take nothing judgment, concluding that it was "unbelievable that an event of the dimensions described by the plaintiff could take place." The district court further noted that Sayles's medical records refuted

his allegations, and, as such, Sayles failed to prove injury. Sayles appeals this judgment.

III

Sayles presents three issues for our consideration. First, he contends that the district court's factual finding that the incident of excessive force and deliberate indifference never occurred is clearly erroneous. Second, he argues that the district court applied the incorrect legal standard in dismissing his excessive force claim. Finally, Sayles contends that the district court erred in concluding that he failed to demonstrate that the defendants were deliberately indifferent to his serious medical need. We will, in turn, address each of these contentions.

A

First, Sayles argues that the district court's conclusion that the event he described had no factual basis is clearly erroneous. A civil rights plaintiff alleging violations of the Eighth Amendment has the burden to prove his factual allegations by a preponderance of the evidence. See, e.g., Bender v. Brumley, 1 F.3d 271, 278 (5th Cir. 1993). We overturn factual findings of a district court sitting without a jury only if the factual findings are clearly erroneous. Anderson v. Bessemer City, 470 U.S. 564, 105 S.Ct. 1504, 1511, 84 L.Ed.2d 518 (1985); Seal v. Knorpp, 957 F.2d 1230, 1234 (5th Cir. 1992). "A finding of fact is clearly erroneous only if our review of the entire record impels the definite and firm conviction that a mistake has been made." Seal

v. Knorpp, 957 F.2d at 1234 n.11 (internal quotes omitted). We cannot reverse the district court simply because we might have decided the case differently. Anderson v. Bessemer City, 470 U.S. at 573, 105 S.Ct. at 1511. Moreover, when findings are based on determinations regarding the credibility of witnesses, we must accord even greater deference to the trial court's findings. Dardar v. Lafourche Realty Co., 985 F.2d 824, 827 (5th Cir. 1993).

The district judge found that the weight and credibility of Sayles's allegations and testimony did not satisfy the preponderance of the evidence standard. The district court found that, in the light of the six officers' testimonies, the lack of an incident report, the failure of any prisoner to adequately corroborate Sayles's graphic account of the incident, and the medical record refuting Sayles's factual allegations, Sayles's version of the incident was not credible, and that Sayles failed to prove that the incident occurred. Because the district court's determination turns on the credibility of the trial witnesses, and because there is evidence in the record to support the district court's finding, we are not left with a definite and firm conviction that a mistake has been made. Consequently, we conclude that the findings of fact are not clearly erroneous.

B

In his second and third issues, Sayles argues that the district court applied an incorrect legal standard, and that the district court clearly erred in finding that he failed to prove

deliberate indifference to serious medical need. The core issues of both claims pertain to Sayles's allegations regarding the defendants' purported attack and their subsequent neglect of his condition. Given the district court's finding that Sayles failed to prove by a preponderance of the evidence that the event occurred or that a serious medical condition resulted, it is unnecessary to discuss these claims.

IV

For the foregoing reasons, the judgment of the district court is

A F F I R M E D.