

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7738

Summary Calendar

WALLACE JORDAN, ET AL.,

Plaintiffs,

LARRY J. NICKERSON,

Plaintiff-Appellant,

versus

JAMES E. SNEED, ET AL.,

Defendants-Appellees.

No. 93-7739
Summary Calendar

WALLACE JORDAN, ET AL.,

Plaintiffs,

LARRY J. NICKERSON,

Plaintiff-Appellant,

versus

FRED D. JOHNSON, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
(CA 89-297 & CA-1:89-303-D-D)

(June 24, 1994)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular

Larry J. Nickerson seeks recovery pursuant to 42 U.S.C. § 1983 from various officials associated with Lee County, Mississippi, and from Corinth City and Alcorn County, Mississippi, and various officials connected with that city and county. His suits involve arrests leading to detention in Lee County, Corinth City, and Alcorn County. He claims that the arrests and the circumstances of his confinement were unconstitutional. A magistrate judge who conducted a Spears¹ hearing concluded that all of Nickerson's claims are without merit. A district judge adopted the magistrate judge's reports and recommendations, dismissing Nickerson's claims as frivolous pursuant to 28 U.S.C. § 1915(d).

Nickerson asserts, among other things, that he was arrested without probable cause, that he was deprived of counsel and placed in a line-up in a way that was suggestive of his identity as a suspected culprit, that he was never informed of his Miranda rights, that he was denied access to a law library, that in court various defense and prosecuting attorneys, court personnel, and judges conspired to deprive him of his constitutional rights, that the magistrate judge dominated and hurried his Spears hearing, that 28 U.S.C. § 1915(d) is unconstitutional, that a staff writer for a local newspaper violated his rights by describing inaccurately the

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

¹ Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985).

circumstances of his arrest and detention, and that he was deprived of medical care for several days while detained.

Most of Nickerson's claims are frivolous on their face. Many of the people he is suing are entitled to absolute immunity, others are not state actors, and yet others are court personnel who dutifully performed administrative tasks that they were assigned. He alleges no specific wrongdoing connected with his charge of conspiracy that could give rise to liability. Further, Nickerson was arrested pursuant to adequate warrants and the procedural defects he alleges are without basis in law, require proof of detriment which he does not assert, or are not appropriately actionable under § 1983. In general, the propriety of dismissal pursuant to 28 U.S.C. § 1915(d) is clear. One matter, however, requires further attention.

Nickerson asserts that he informed Bill Gant, Sheriff of Alcorn County, when he became ill while detained and that Gant deprived him of medical attention for three or four days. Nickerson, or someone assisting him, then placed a telephone call to a hospital, which transported Nickerson by ambulance to its facilities and addressed his medical problems. All that Nickerson claims his trip to the hospital revealed was that his blood pressure was high and that there "was something wrong with his pulse beat." He does not assert, or provide any grounds for concluding, that the delay in medical services harmed him. We require as the basis for a viable claim of delayed medical treatment that harm resulted. See, e.g., Mendoza v. Lynaugh, 989

F.2d 191, 193 (5th Cir. 1993) ("[I]n order to maintain a viable claim for delayed medical treatment there must have been deliberate indifference, which results in harm.") (citing Wesson v. Oglesby, 910 F.2d 278, 284 (5th Cir. 1990); Shapley v. Nevada Bd. of State Prison Comm'rs, 766 F.2d 404, 407 (9th Cir. 1985)). We find no indication of the requisite harm.

AFFIRMED.