

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8553
Summary Calendar

DARYL K. DANIELS,

Plaintiff-Appellant,

VERSUS

JOHN SPARKS, Medical Director,
Medical Administrator, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Texas
(SA-93-CA-21)

(April 5, 1994)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:¹

Daryl K. Daniels challenges the summary judgment on his § 1983 claim that the defendants provided him with inadequate medical care while he was a pretrial detainee at Bexar County Adult Detention Center (BCADC). We **AFFIRM**.

I.

Daniels was a pretrial detainee at BCADC on May 30, 1992, when he was allegedly attacked by two unidentified persons. According

¹ Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

to his medical records, he was beaten in the face and kicked in the back of the head. The BCADC medical staff determined that he had tenderness and swelling in his right cheek, swelling near his right eye, facial contusions and a swollen right shoulder blade. The medical staff further found that none of his injuries were life-threatening, provided him with an ice pack, and directed his transfer to a local hospital. The hospital staff administered x-rays, which revealed no evidence of trauma, and a urinalysis, which showed a slight rise in white cells, indicating a possible urinary tract infection. Dismissed with directions to return to the hospital in two weeks, Daniels but did not do so until September 22, 1992. According to Daniels' medical records, he did not receive medical care between May 30 and September 22.²

When Daniels did return to the hospital on September 22, he was treated with an antibiotic for the urinary tract infection. An

² Daniels asserted in papers filed with the district court that he had requested "sick call" several times during the period but offered no proof to refute or explain the absence of those requests from his medical records. He did produce documents purporting to be grievance forms submitted by him to unidentified BCADC employees dated June 20, October 16 and December 7 (4 grievances), but none reference his urinary tract infection. The grievance forms included spaces to be completed by BCADC officials, but those portions of the June 20 and October 16 grievance forms were blank; accordingly, there was nothing on the forms to indicate that they were ever filed. In one of the December 7 grievances, Daniels complained that he had never received a response to a previous complaint about his medical treatment. According to the grievance form, the BCADC responded by stating that Daniels should re-submit his grievances, because no previous grievances were received. Daniels also submitted three additional grievances dated December 7, 1993, which were allegedly mailed by certified mail to the defendants. These grievances, however, included both original portions of the certified mail form, including the portion that would have been included on the envelope mailed to the defendants.

intravenous polygram was performed on October 8 and revealed no mass or obstruction. On October 18, Daniels requested that he be allowed to move from the medical pod to other living quarters in the facility.

Daniels thereafter initiated this action against Harlon Copeland, Sheriff of Bexar County, Texas in May 1992; Thomas Barry, Director of the Bexar County Adult Detention Center that May; and John C. Sparks, M.D., Medical Director of the Medical/Psychiatric Department of the Bexar County Detention Center that May. He alleged that he had been subjected to physical pain and discomfort and mental depression because of the delay in medical treatment and due process rights. The defendants moved for summary judgment. Based on the magistrate judge's report and recommendation, to which Daniels did not file objections (although granted additional time to do so), the motions were granted.

II.

This Court reviews a grant of summary judgment de novo. **Abbott v. Equity Group, Inc.**, 2 F.3d 613, 618 (5th Cir. 1993), **petition for cert. filed**, 62 U.S.L.W. 3503 (U.S. Jan. 12, 1994) (No. 93-1136). It is proper if the moving party establishes that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. *E.g.*, **Campbell v. Sonat Offshore Drilling, Inc.**, 979 F.2d 1115, 1119 (5th Cir. 1992); Fed. R. Civ. P. 56(c). The non-movant may not rely on mere allegations or denials set out in its pleadings, but must provide specific facts demonstrating that there is a genuine issue for trial. **Id.** On

appeal from summary judgment, this Court examines the evidence in the light most favorable to the non-movant. **Salas v. Carpenter**, 980 F.2d 299, 304 (5th Cir. 1992).

The district court based summary judgment on qualified immunity. The determination whether a defendant is entitled to qualified immunity is a two-step analysis, **Salas v. Carpenter**, 980 F.2d 299, 305 (5th Cir. 1992): whether the plaintiff has stated a violation of a right secured by the Constitution; and, if so, whether the defendant acted objectively reasonable. **Id.** at 305-06. In short, even if a defendant's conduct violates a plaintiff's constitutional rights, that defendant is entitled to qualified immunity if the conduct was objectively reasonable. **Pfannstiel v. City of Marion**, 918 F.2d 1178, 1183 (5th Cir. 1990).

Because Daniels was a pretrial detainee, he was entitled to "reasonable medical care" unless the failure to provide it is reasonably related to a legitimate government objective. **Rhyne v. Henderson County**, 973 F.2d 386, 391 (5th Cir. 1992); **Pfannstiel v. City of Marion**, 918 F.2d 1178, 1186 (5th Cir. 1990); **Jones v. Diamond**, 636 F.2d 1364 (5th Cir. 1981) (en banc).

Based on Daniels' allegations, as well as his opposition to the motions for summary judgment, it is apparent that he sued the defendants only in their supervisory capacity. As a general matter, a supervisor's liability requires proof of (1) a "deliberately indifferent" policy that (2) was the "closely related" cause of the violation of the plaintiff's federally protected rights. **See Doe v. Taylor Independent School District**,

___ F.3d ___, 1994 WL 45241 (5th Cir., Mar. 3, 1994) (No. 90-8431).

Daniels only alleges that the defendants had supervisory responsibility over Bexar County, the BCADC, and the Medical Department of BCADC, entities which he believed failed to provide him with reasonable medical care despite his alleged requests for treatment. Daniels has not, however, pointed to any policy that was or was not followed in connection with the alleged failure to provide him with such care. Nor did he present any facts supporting a causal connection between the defendants' supervisory responsibility (or any other acts of the defendants) and the alleged denial of reasonable medical care. He merely alleges denial of medical care without any indication how the defendants' supervisory responsibility had anything to do with that denial.

In sum, in the absence of such proof, the defendants were entitled to qualified immunity; therefore, summary judgment was proper.

III.

For the foregoing reasons, the judgment is

AFFIRMED.