

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-10023  
Conference Calendar

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UNGREA WALTON,

Plaintiff-Appellant,

versus

JIM BOWLES, Sheriff of Dallas  
County, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:93-CV-2375-R  
- - - - -

(May 19, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Ungrea Walton filed an in forma pauperis (IFP) complaint alleging that he was denied adequate medical treatment. The district court dismissed his complaint as frivolous.

A complaint filed IFP can be dismissed sua sponte if the complaint is frivolous. 28 U.S.C. § 1915(d); Cay v. Estelle, 789 F.2d 318, 323 (5th Cir. 1986). A complaint is frivolous if it lacks an arguable basis in law or fact. Ancar v. Sara Plasma,

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Inc., 964 F.2d 465, 468 (5th Cir. 1992). This Court reviews the district court's dismissal for an abuse of discretion.

To state a medical claim cognizable under § 1983, a convicted prisoner must allege acts or omissions sufficiently harmful to evidence a deliberate indifference to serious medical needs. Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976). Unsuccessful medical treatment, negligence, neglect, and even medical malpractice do not state a claim under § 1983. Varnado v. Lynaugh, 920 f.2d 320, 321 (5th Cir. 1991).

Walton was injured when he fell off the bunk bed on May 9, 1993, and was taken to the infirmary and examined by a nurse. Between May and November 1993, Walton was seen by the medical personnel seven times. These facts demonstrate that prison officials were not deliberately indifferent to Walton's medical needs. See Walker v. Butler, 967 F.2d 176, 178 (5th Cir. 1992).

AFFIRMED.