

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-10115  
Summary Calendar  
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ALPHUS RAY WILLIAMS,

Plaintiff-Appellant,

versus

CHIEF OF MEDICAL OPERATIONS,  
TARRANT COUNTY JAIL,

Defendant-Appellee.

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Appeal from the United States District Court for the  
Northern District of Texas  
(4:93-CV-520-A)  
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(December 27, 1994)

Before GARWOOD, HIGGINBOTHAM and DAVIS, Circuit Judges.\*

GARWOOD, Circuit Judge:

Plaintiff-appellant Alphus Ray Williams (Williams), proceeding *pro se* and *in forma pauperis*, brought this suit for damages under 42 U.S.C. § 1983 asserting violation of his constitutional right to reasonable medical care. The district court entered summary judgment for the defendant-appellee Chief of Medical Operations,

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Tarrant County Jail (TCJ or the Jail). We affirm.

**Facts and Proceedings Below**

On December 14, 1991, Williams was booked at TCJ on a charge of aggravated assault with a deadly weapon. At that time, he was wearing a soft cast on his left hand, having undergone surgery for fractures to some of his fingers approximately a month before, and he also still had several sutures in the hand. The injury was noted in the report of the nurse who examined Williams when he was booked, along with the fact that Williams reported that he had not recently been taking any medication. On December 30, 1991, Dr. Holbrook examined Williams and referred him to the John Peter Smith orthopedic clinic for evaluation of the hand injury. Dr. Holbrook's report of that examination noted that the sutures were removed that day, a splint ordered, and pain medication prescribed. Williams was seen at the clinic on January 31, 1992. He complained of continued pain in the hand and also stated that some of the sutures had not been removed. The clinic doctor did not observe any remaining sutures, diagnosed Williams's complaints as post-surgical pain, and prescribed an antibiotic and Motrin. In his report, the doctor also noted that "[patient] may be needing to have *reality therapy* for chronic pain vs drug seeking behavior." (Emphasis in original).

From February to November 1992, Williams was seen by doctors at both TCJ and the orthopedic clinic on at least twelve separate occasions, although he was frequently uncooperative in doctors' efforts to examine the hand. In April, doctors removed four additional sutures that had worked their way to the surface of the

skin, but were otherwise unable to find an objective basis for Williams's complaints. X-rays taken in June 1992 found the fractures to be well-healed. On most of his visits, Williams requested either Vicodin, a potent narcotic not usually prescribed in prisons because of its high commercial value among inmates, or Elavil, a mood-enhancing drug. Several of the doctors who examined Williams noted his drug-seeking behavior.

Williams filed this complaint on August 6, 1993, against "Chief of Medical Operations of Tarrant County Jail," seeking unspecified actual and punitive damages for alleged indifference to his medical needs. Pursuant to a district court order, Williams filed an amended complaint on August 19, 1993, clarifying that he was a pretrial detainee during the time that the events forming the basis of his suit occurred.<sup>1</sup> The Jail responded to the complaint by filing a motion to dismiss or for summary judgment on September 28, 1993. Williams did not respond to this motion. Considering TCJ's uncontroverted evidence, the district court entered summary judgment for TCJ on December 16, finding that TCJ had fully satisfied the reasonable medical care standard applicable to pretrial detainees such as Williams. The district court also recognized that the named defendant was not a proper party to the action but determined that further amendment of the complaint should not be allowed because the evidence clearly showed no violation of Williams's constitutional rights.

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<sup>1</sup> Williams was removed from TCJ on December 1, 1992, and taken into custody by the Texas Department of Criminal Justice. On August 8, 1993, he was convicted of aggravated assault with a deadly weapon and sentenced to five years' imprisonment.

Within ten days of this order, Williams filed a "Motion for Leave of Court to Object to Defendant's Motion to Dismiss or for Summary Judgment, and Second Amendment to Plaintiff's Petition," alleging that he had relied on the incompetent advice of a jailhouse lawyer. He sought to submit an affidavit in opposition to the summary judgment motion. The district court found that the motion, as styled, was moot on both counts and then, construing the motion as one for reconsideration under Rule 59(e), denied further relief. Williams timely appealed to this Court.

#### **Discussion**

Our review of a grant of summary judgment is plenary. *Exxon Corp. v. Burclin*, 4 F.3d 1294, 1297 (5th Cir. 1993). We will affirm if a review of all the evidence shows that there is no genuine issue of material fact and that therefore the movant is entitled to judgment as a matter of law. FED.R.CIV.P. 56(c). Denial of a motion for reconsideration is reviewed for abuse of discretion. *Midland West Corp. v. FDIC*, 911 F.2d 1141, 1145 (5th Cir. 1990).

Pretrial detainees' complaints about the conditions of their confinement are valid under the Fourteenth Amendment only if those conditions constitute punishment. *Bell v. Wolfish*, 99 S.Ct. 1861, 1872 (1979); *Cupit v. Jones*, 835 F.2d 82, 85 (5th Cir. 1987). A pretrial detainee is entitled to "reasonable medical care," *Cupit*, 835 F.2d at 85, the denial of which can be demonstrated by showing that jail officials did not adequately respond to the plaintiff's requests for treatment. *Thomas v. Kippermann*, 846 F.2d 1009, 1011 (5th Cir. 1988). Legitimate treatment is sufficient to satisfy the

reasonable medical care standard, even if treatment is ultimately unsuccessful. *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991). In addition, mere negligence in the provision of medical care does not implicate a violation of the Fourteenth Amendment. *Daniels v. Williams*, 106 S.Ct. 662, 666 (1986); *Varnado*, 920 F.2d at 321.

Given this standard, we have no trouble concluding, as did the district court, that TCJ fully complied with Williams's right to reasonable medical care. Williams was seen and treated at least twelve times during the relevant time period. Although medical personnel suspected that Williams's complaints had less to do with real physical pain associated with his hand than with a desire for drugs, they did take his complaints seriously and attempted to find an objective basis for his pain. Neither the fact that Williams continued to experience pain despite the treatment afforded him nor the fact that doctors refused to provide him with the specific pain killers he requested is sufficient to constitute a violation of his Fourteenth Amendment rights.

In addition, although Williams alleged in the affidavit he submitted with his motion for reconsideration that the nurse who removed his sutures in April 1992 acted negligently, mere negligence does not rise to the level of a constitutional violation. *Daniels*, 106 S.Ct. at 666. As this was the only evidence Williams ever submitted that contradicted TCJ's evidence, no genuine issue of material fact arose. Therefore, even if the district court had been obliged to consider the belated affidavit, which it was not, it did not abuse its discretion in denying

reconsideration.

Lastly, Williams alleges that overcrowded conditions at the Jail violated his Eighth Amendment rights and that he was denied medical care pursuant to an inadequate health screening policy for new inmates. As these issues were not raised below, we refuse to address them here. *Varnado*, 920 F.2d at 321.

**Conclusion**

For these reasons, the decision of the district court is

AFFIRMED.