IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10127
Conference Calendar

SAMUEL JACKSON,

Plaintiff-Appellant,

versus

TDCJ ROACH UNIT, INFIRMARY,
UNNAMED NURSES, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:92-CV-0185

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(May 17, 1994)

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

PER CURIAM:*

Texas prisoner Samuel Jackson, proceeding pro se and in forma pauperis (IFP), appeals the dismissal of his civil rights suit alleging a delay in medical care following a slip and fall accident. A frivolous IFP complaint may be dismissed. 28 U.S.C. § 1915(d); Booker v. Koonce, 2 F.3d 114, 115 (5th Cir. 1993). A claim that has no arguable basis in law or fact is subject to such a dismissal. Booker, 2 F.3d at 115. We review for abuse of discretion. Id.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

If it appears that "insufficient factual allegations might be remedied by more specific pleading," one vehicle for "remedying inadequacy in prisoner pleadings" is a questionnaire. Eason v. Thaler, 14 F.3d 8, 9 (5th Cir. 1994). The questionnaire is in the nature of a motion for a more definite statement to dig beneath a pro se prisoner's conclusional allegations to determine the factual and legal bases of a claim. Spears v. McCotter, 766 F.2d 179, 181 (5th Cir. 1985). Another vehicle is a hearing. Id. at 180.

Prison officials violate the Eighth Amendment proscription against cruel and unusual punishment when they demonstrate deliberate indifference to a prisoner's serious medical needs, constituting an unnecessary and wanton infliction of pain. Wilson v. Seiter, 501 U.S. 294, ___, 111 S. Ct. 2321, 2323, 2326-27, 115 L. Ed. 2d 271 (1991). Indifference is a state of mind that may be evidenced by wantonness. Id. at 2326. Whether an official so acts depends on the constraints facing the official. Id. Neither unsuccessful nor negligent medical treatment nor mistaken medical judgment gives rise to a 42 U.S.C. § 1983 cause of action. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Disagreement with such treatment gives rise to no such action either. Id.

Jackson vaguely alleged negligence and intentional retaliation. Because negligence is not constitutionally actionable, the district court did not abuse its discretion in dismissing on that ground.

The magistrate judge attempted to remedy Jackson's vague

allegation of intentional acts by asking him to identify those persons who denied him care and the dates of such denials. Jackson refused to answer that question. Because that refusal left the complaint with no basis in fact, the district court did not abuse its discretion in dismissing on that ground.

We note that, in an unrelated appeal, this Court recently warned Jackson that sanctions will result from future frivolous appeals. Jackson v. TDCJ, No. 93-5325 (5th Cir. Mar. 23, 1994) (unpublished). Because the instant appeal was filed and briefed before that warning, we impose no sanctions at this time. The prior warning, however, retains its force.

AFFIRMED.