IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10278
Conference Calendar

JULIAN SCOTT ESPARZA,

Plaintiff-Appellant,

versus

CHARLES E. ALEXANDER, Deputy Director, TDCJ Health Services Division, in his Individual and Official Capacity,

Defendant-Appellee.

- - - - - - - - - -
CONSOLIDATED WITH
No. 94-10279
_ _ _ _ _ _ _ _ _ _

JULIAN SCOTT ESPARZA,

Plaintiff-Appellant,

versus

WAYNE SCOTT, Deputy Director of Operations, TDCJ Huntsville, Texas,

Defendant-Appellee.

- - - - - - - - - -
CONSOLIDATED WITH
No. 94-10280
_ _ _ _ _ _ _ _ _ _

JULIAN SCOTT ESPARZA,

Plaintiff-Appellant,

versus

JOHN DOE CASE, Officer, TDCJ Clements Unit, ET AL.,

Defendants-Appellees.

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Appeals from the United States District Court
for the Northern District of Texas
USDC No. 2:93-CV-62
USDC No. 2:93-CV-63
USDC No. 2:93-CV-61
- - - - - - - - - -
(July 19, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Julian Scott Esparza's three cases challenging the judgments of the district court dismissing his civil rights actions are consolidated for appeal. Esparza contends in No. 94-10278 that the failure to provide him with opium as treatment for his bodily injury constituted a violation of the Eighth Amendment.

In order to state a cognizable claim of an Eighth Amendment violation in the medical sense, a prisoner must show that prison officials were deliberately indifferent to his serious medical needs constituting unnecessary and wanton infliction of pain. Estelle v. Gamble, 429 U.S. 97, 104-06, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976). A prison official acts with deliberate indifference "only if he knows that inmates face a substantial risk of serious harm and [he] disregards that risk by failing to take reasonable measures to abate it." Farmer v. Brennan, ___ U.S. ___, 114 S.Ct. 1970, 62 USLW 4446 (1994). It is not enough that the plaintiff is dissatisfied with the medical treatment he receives

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

or that he alleges mere negligence. See Spears, 766 F.2d at 181; Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991).

Esparza does not demonstrate that Dr. Alexander took any wanton action that amounted to deliberate indifference to his medical needs. His claim amounts to no more than a disagreement with the treatment he received and does not rise to the level of an Eighth Amendment violation.

Esparza's claim in No. 94-10279 against Wayne Scott is Scott's failure to find in his favor during a grievance procedure against officers who placed him in handcuffs. Esparza does not assert that he was deprived of due process; he argues only that it is against prison policy to place an inmate in handcuffs when there has been no incident report.

A violation of prison regulations, without more, does not give rise to a federal constitutional violation. Hernandez v. Estelle, 788 F.2d 1154, 1158 (5th Cir. 1986). Therefore, Esparza has not alleged that Scott deprived him of a constitutional right. See Daniel v. Ferguson, 839 F.2d 1124, 1128 (5th Cir. 1988).

Esparza argues in No. 94-10280 that correctional officers violated his Eighth Amendment rights because their conduct, consisting of verbal abuse and obscene gestures, caused him "acute trauma."

"Mere allegations of verbal abuse do not present actionable claims under § 1983." Bender v. Brumley, 1 F.3d 271, 274 n.4 (5th Cir. 1993). "[A]s a rule, mere threatening language and

gestures of a custodial office[r] do not, even if true, amount to constitutional violations." McFadden v. Lucas, 713 F.2d 143, 146 (5th Cir.) (internal quotation and citation omitted), cert. denied, 464 U.S. 998 (1983). Esparza's allegations do not support an Eighth Amendment claim under § 1983.

Because Esparza's claims have no arguable basis in law and fact, the district court did not abuse its discretion in dismissing the claims as frivolous. See Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992).

The appeals, too, are without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeals are frivolous, they are DISMISSED. 5th Cir. R. 42.2.

These three appeals are so patently frivolous that Esparza should have withdrawn them after our opinion of March 25, 1994, in which we warned that "if [Esparza] continues to file frivolous appeals, we will assess monetary sanctions and he will not be allowed any other filings in the district court without prior approval of that court and no further appeals to this Court unless the district court has certified that the appeal is taken in good faith." Esparza v. Deputy, No. 93-8665 (5th Cir. March 25, 1994). We now impose those sanctions.

We direct the district courts subject to the jurisdiction of this Court to decline to accept for filing any complaint by Esparza under 42 U.S.C. § 1983 concerning the conditions or matters relating to his confinement unless he first receives the

written permission to do so from a district or magistrate judge of the forum court; nor may he file any appeal from any such matter in this Court without receiving prior authorization from an active judge of this Court.

APPEALS DISMISSED; SANCTIONS IMPOSED.