

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10505
Conference Calendar

BARRY C. PADGETT,

Plaintiff-Appellant,

versus

MARTIN L. GRIFFITH, JR., Sheriff,
Johnson County, Texas,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:94 CV 673-X
- - - - -

(July 21, 1994)

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

PER CURIAM:*

Barry C. Padgett filed an action under 42 U.S.C. § 1983 against Martin L. Griffith, Jr., the Sheriff of Johnson County, Texas, asserting that it was both a due process and an equal protection violation to charge inmates for medical expenses. Padgett did not complain that he was denied medical care because he was unable to pay for it. The district court concluded that the claim had no basis in law because the constitution does not mandate free medical services for inmates if prison authorities

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

do not deny a prisoner reasonable treatment on the basis of his poverty. See City of Revere v. Massachusetts Gen. Hosp., 463 U.S. 239, 245 n.7, 103 S.Ct. 2979, 77 L.Ed.2d 605 (1983).

A reviewing court will disturb a district court's dismissal of a pauper's complaint as frivolous only on finding an abuse of discretion. A complaint may be dismissed as frivolous "where it lacks an arguable basis either in law or in fact." Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1733-34, 118 L.Ed.2d 340 (1992) (internal quotation and citation omitted). With respect to an equal protection claim, Padgett has not alleged that this prison policy treats any group or individual differently from any other group or individual. With respect to a due process claim, Padgett has not alleged a constitutional violation. In City of Revere, the Supreme Court held that "as long as the governmental entity ensures that the medical care needed is in fact provided, the Constitution does not dictate how the cost of that care should be allocated as between the entity and the provider of that care." City of Revere, 463 U.S. at 245. The Supreme Court went on to note that "[n]othing we say here affects any right a hospital or governmental entity may have to recover from a detainee the cost of the medical services provided to him." Id. at 245 n.7. The district court did not abuse its discretion in concluding that Padgett's constitutional claims had no basis in law.

AFFIRMED.