

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-10549
(Summary Calendar)

RICKIE LYNN GRAVES,

Plaintiff-Appellant,

versus

SHERIFF OF LYNN COUNTY, TEXAS,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(5:93-CV-280)

(January 11, 1995)

Before DUHÉ, WIENER and STEWART, Circuit Judges.

PER CURIAM:*

On October 27, 1993, Rickie Lynn Graves filed a complaint under 42 U.S.C. § 1983 in the Northern District of Texas against the Sheriff of Lynn County in his official capacity. He alleged that the Sheriff had denied him medical attention for a toothache he suffered while incarcerated in the Lynn County Jail from May 29, 1992 to June 23, 1992. On May 24, 1994, the district court granted a summary judgment against Graves. Graves appeals the judgment of the district court. He also demands a right to a jury trial.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

This Court reviews a district court's grant of summary judgment de novo. Topalian v. Ehrman, 954 F.2d 1125, 1131 (5th Cir.), cert. denied, ___ U.S. ___, 113 S.Ct. 82, 121 L.Ed.2d 46 (1992). Summary judgment under Fed. R. Civ. P. 56(c) is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S.Ct. 2548, 2552, 91 L.Ed.2d 265 (1986). The Eighth Amendment's prohibition against "cruel and unusual punishment" protects Graves from the denial of medical care, if the denial of care is "sufficiently harmful to evidence deliberate indifference to serious medical needs." Estelle v. Gamble, 429 U.S. 97, 106, 97 S.Ct. 285, 292, 50 L.Ed.2d 251 (1976).

After reviewing the record, we hold that Graves has not established that he had a serious medical need. Graves testified at a deposition that he was given pain medications whenever he asked. He also stated that this pain medication relieved his pain. When Graves was moved from Lynn County to Lubbock County in June 1992, he signed a statement saying that he had not had any medical problems with his teeth for the previous two years. The medical records at Lubbock County Jail reveal that Graves had not asked for or reported any dental problems for the nine months after he arrived at the Lubbock County Jail. The problems Graves suffered at the Lynn County Jail did not amount to a serious medical need.

The summary judgment evidence, uncontradicted by Graves, shows that the defendant provided him with pain medication for his toothaches, consequently, we dismiss his arguments about the deliberate indifference of the Sheriff. Graves' demands for a jury trial and attorney fees are similarly meritless. We do not address his arguments about the inadequacy of the medical policy and procedures at the Lynn County Jail, because they were not raised in the district court. Verando v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991).

CONCLUSION

For the foregoing reasons, the judgment of the district court is AFFIRMED.