

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 94-40558  
Conference Calendar

---

GLENN PURVIS WYATT,

Plaintiff-Appellant,

versus

ALAN LARSON, Physician,

Defendant-Appellee.

- - - - -  
Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:93-CV-535

- - - - -  
(November 17, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:\*

Glenn Purvis Wyatt filed an in forma pauperis (IFP) civil rights complaint against prison doctor Alan Larson alleging that he was denied adequate medical treatment in violation of the Eighth Amendment. The district court dismissed the complaint as frivolous.

A complaint filed IFP can be dismissed sua sponte if the complaint is frivolous. 28 U.S.C. § 1915(d); Cay v. Estelle, 789 F.2d 318, 323 (5th Cir. 1986). A complaint is frivolous if it lacks an arguable basis in law or fact. Ancar v. Sara Plasma,

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Inc., 964 F.2d 465, 468 (5th Cir. 1992). This Court reviews the district court's dismissal for an abuse of discretion. Id.

To state a medical claim cognizable under 42 U.S.C. § 1983, a convicted prisoner must allege acts or omissions sufficiently harmful to evidence a deliberate indifference to serious medical needs. Estelle v. Gamble, 429 U.S. 97, 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976). A prison official acts with deliberate indifference under the Eighth Amendment "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, 1984, 128 L. Ed. 2d 811 (1994); see Reeves v. Collins, 27 F.3d 174, 176-77 (5th Cir. 1994) (applying the Farmer standard in the context of a denial-of-medical-care claim). Unsuccessful medical treatment, negligence, neglect, and even medical malpractice do not state a claim under § 1983. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991).

Wyatt admits that Dr. Larson treated him on several occasions and prescribed Maalox. Dr. Larson believed that Maalox was sufficient to control Wyatt's ulcers. Wyatt contends, however, that Dr. Larson's treatment was inadequate because two other doctors prescribed Tagamet after Dr. Larson refused to renew his prescription. Wyatt's argument amounts to nothing more than disagreement with the medical treatment received and not deliberate indifference to serious medical needs. See Varnado, 920 F.2d at 321.

AFFIRMED.