

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40848
Summary Calendar

RILEY B. KING, JR.,

Plaintiff-Appellant,

versus

RODNEY HOWARD, Anderson County
Commissioner, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for
the Eastern District of Texas
(6:93-CV-546)

(June 2, 1995)

Before REAVLEY, DAVIS and DeMOSS, Circuit Judges.

PER CURIAM:*

Riley B. King, Jr. challenges the dismissal with prejudice of his complaint, which alleged that his constitutional rights were violated during his time at Anderson County Jail. We affirm.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

DISCUSSION

The court did not abuse its discretion in dismissing King's complaint as frivolous pursuant to 28 U.S.C. § 1915. See Denton v. Hernandez, 112 S.Ct. 1728, 1733-34 (1992). King's complaint lacked an arguable basis in law or fact. See id.

King's complaint alleged that King was denied his right of access to the court. He argues that, in preparing this civil case, he had inadequate access to legal resources and had no assistance from any person trained in the law. See Bounds v. Smith, 97 S.Ct. 1491, 1498 (1977). However, King filed a detailed civil complaint and supplemental complaint sufficient to invoke the jurisdiction and review of this court. On appeal, he filed a substantial appellate brief including appropriate citations to the law. King has not shown any actual injury from the alleged denial of access and cannot succeed on this claim. See Mann v. Smith, 796 F.2d 79, 84 & n.5 (5th Cir. 1986).

King alleged that he was denied adequate medical care. However, he failed to show that the defendants acted with "deliberate indifference to serious medical needs." Estelle v. Gamble, 97 S.Ct. 285, 291 (1976). He complains that the prison does not employ an around-the-clock registered nurse and that he was not allowed to see a doctor rather than a nurse when he so requested. He also asserts that jailers without medical training handed out prescriptions, often incorrectly. When he complained to the jailers about incorrect medication, he received no medication at all. The medical treatment King received at the

Anderson County Jail "may not have been the best that money could buy . . ." and occasionally he may not have received his prescribed medication, but these are minimal deficiencies which do not rise to the level of a constitutional violation.

Mayweather v. Foti, 958 F.2d 91, 91 (5th Cir. 1992). King also complains that, on one occasion, he did not receive any medical treatment until 18 hours after he fell and injured his back. He does not identify any "substantial harm" resulting from the delay and therefore does not state a claim. Mendoza v. Lynaugh, 989 F.2d 191, 195 (5th Cir. 1993).

King also complained that the food that he received at Anderson County Jail was inadequate and that he did not receive sufficient outdoor recreation. A prison must only provide meals which contain sufficient nutritional value to preserve health. Smith v. Sullivan, 553 F.2d 373, 380 (5th Cir. 1977). This court examines exercise claims under the totality of the circumstances to determine whether lack of exercise leads to an impairment of health. Green v. Ferrell, 801 F.2d 765, 771-72 (5th Cir. 1986). King did not allege any facts indicating that his health was adversely affected by the prison food or by a lack of outdoor recreation. He cannot then claim that the food or recreation were constitutionally inadequate.

Finally, King alleged that the jailers did not make routine rounds to check on prisoners and did not communicate with prisoners through the intercom system. He alleged that fights often broke out among prisoners and that the jailers did nothing

to halt them. Prison officials have a duty not to be deliberately indifferent to dangers to an inmate. Johnston v. Lucas, 786 F.2d 1254, 1260 (5th Cir. 1986). However, King did not allege any facts establishing that prison officials were deliberately indifferent to his safety needs or that he was harmed by such indifference.

AFFIRMED.