

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40956
Summary Calendar

LAWRENCE EDWARD THOMPSON,

Plaintiff-Appellant,

versus

RICHARD L. JACKSON, JR.,
Sgt., Michael Unit, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
(6:92 CV 168)

August 10, 1995

Before JONES, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Appellant Thompson amassed a number of complaints against prison officials in the lawsuit he filed in the district court. The magistrate judge liberally permitted him to amend his complaint, held a Spears hearing and eventually ordered the complaint dismissed on two grounds. The district court concurred. As to some allegations, the court concluded that Thompson failed to

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

exhaust his prison administrative remedies. As to other complaints, the court held that they were frivolous and subject to dismissal under 28 U.S.C. § 1915(d). On appeal, Thompson contends that he did not have to exhaust remedies and the court erred by failing to look at his entire prison medical record in order to determine whether he has received constitutionally adequate medical care. Finding no error, we affirm.

Thompson's contention that he need not exhaust administrative remedies is groundless. In Marsh v. Jones, ___ F.3d ___, No. 94-30458 (Fifth Cir. June 2, 1995), this court affirmed a district court's authority to dismiss a § 1983 prisoner complaint for failure to exhaust administrative remedies under 42 U.S.C. § 1997e(a)(1). See also, Arvie v. Stalder, ___ F.3d ___, No. 94-30151 (Fifth cir. June 2, 1995).

Second, to the extent we can understand Thompson's brief on appeal, he recites a litany of encounters with TDC-IJ medical personnel, particularly Dr. Rasberry, and argues that his medical records were inadequately kept and his treatments ineffective. This recitation of woes seems to have little to do with Thompson's stated complaint that the district court should have viewed his entire prison medical file before ruling on his medical care claims. He seems to suggest that the district court had the obligation to ferret out possibly inadequate medical care from those records. This is not the case. Thompson received numerous opportunities in the trial court to explain how he had been injured by an unconstitutional denial of medical care. The court ordered

prison officials, in another case Thompson filed, to make his medical records available for Thompson's use in litigation. Thompson thus also had an additional avenue of research for his complaint. Nevertheless, he failed to persuade the district court that he had stated a non-frivolous § 1983 claim.

Our response to this contention on appeal is simple. It was Thompson's obligation to advise the trial court of the facts concerning alleged unconstitutional denial of medical care. Thompson had adequate opportunity and access to his own medical records to accomplish this objective. It is his fault, not the trial court's, if he was unable to allege facts establishing a non-frivolous claim. The trial court committed no error.

Thompson is warned that a person's penchant for filing frivolous § 1983 lawsuits and appeals will no longer be tolerated by the courts. Should he file any more appeals in this court, his papers will be carefully scrutinized, and he will become subject to sanction if the papers or appeals are determined to be frivolous.

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