

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-41028
Conference Calendar

JAMES E. RUDD,

Plaintiff-Appellant,

versus

RONALD REED, Doctor, Health Unit Physician,
Eastham Unit of the Texas Department
of Criminal Justice,

Defendant-Appellee.

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Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:94-CV-124

- - - - -
(January 25, 1995)

Before POLITZ, Chief Judge, and HIGGINBOTHAM and DeMOSS,
Circuit Judges.

PER CURIAM:*

Texas prisoner James E. Rudd appeals the dismissal of his
civil rights action against Dr. Ronald Reed as frivolous.

"Unsuccessful medical treatment does not give rise to a § 1983
cause of action. Nor does [m]ere negligence, neglect or medical
malpractice." *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir.
1991)(citations omitted).

The record indicates that Rudd's claim against Reed amounts

* 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that this opinion should not be published.

to a mere disagreement with the treatment he received. Rudd's allegations and the medication passes in the record indicate that Reed and the medical staff examined Rudd several times and, on occasion, prescribed pain-killers and ice packs; placed Rudd on crutches; recommended cell and bunk restrictions; and recommended that Rudd be unassigned from work. Rudd thus received medical attention and was treated for his knee injury. Further, Rudd does not allege that Reed actually controlled cell and work assignments. He alleges only that the physician was responsible for the medical evaluations that served as the bases for those assignments and that Reed did not intervene on his behalf when Rudd complained about violations of medical restrictions.

Inasmuch as Rudd may have sought restrictions other than those he alleges already existed, such a contention would amount to nothing more than a disagreement with Reed's treatment. Inasmuch as other prison officials may have violated the restrictions that Rudd alleges existed through cell and work assignments, Rudd has not alleged facts indicating that Reed was responsible for those violations.

Rudd has not alleged facts regarding his treatment by Reed that give rise to an arguable claim against the physician, despite having been given an opportunity to do so. Dismissal of Rudd's claim against Reed with prejudice therefore was appropriate. *Graves v. Hampton*, 1 F.3d 315, 319 (5th Cir. 1993).

AFFIRMED.