UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 94-50051
Summary Calendar

RALPH JUDSON YEARY,

Plaintiff-Appellant,

VERSUS

ANDY COLLINS, ET AL.,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
(A-93-CA-155)

(September 9, 1994)

Before DUHÉ, WIENER, and STEWART, Circuit Judges.

PER CURIAM:[1]

Appellant Ralph Judson Yeary, proceeding pro se and in forma pauperis, appeals the trial court's granting of summary judgment in favor of Appellees Andy Collins, Director of the Texas Department of Criminal Justice))Institutional Division, and Dan Morales, Attorney General of Texas. Appellant also moves to compel a medical exam of him by an independent physician. We affirm and deny the motion.

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

FACTS

Ralph Judson Yeary is serving a sentence in Texas State Prison for aggravated sexual assault. Yeary filed this civil rights suit under 42 U.S.C. § 1983 alleging (1) deliberate indifference to his serious medical needs and (2) an unconstitutional denial of his contact visits with his minor children. The trial court granted summary judgment in favor of defendants. Yeary appeals.

DISCUSSION

Summary judgment is appropriate if the record discloses "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." Fed. R. Civ. P. 56(c). We review the district court's grant of summary judgment de novo. Weyant v. Acceptance Ins. Co., 917 F.2d 209, 212 (5th Cir. 1990). We consider all the facts contained in the record and the inferences to be drawn therefrom in the light most favorable to the non-moving party. Id.

Yeary contends that Appellees and their agents were deliberately indifferent to his serious medical needs. Vicarious liability, however, is not available in § 1983 actions. Williams v. Luna, 909 F.2d 121, 123 (5th Cir. 1990). Furthermore, Yeary presents no evidence that Appellees knew of him or his condition. Thus, Appellant's medical claim must fail.

Appellant also contends that he has the constitutional right to physical contact with his minor children. "Convicted prisoners have no absolute constitutional right to visitation." Lynott v. Henderson, 610 F.2d 340, 342 (5th Cir. 1980). Any limitations on

visitation, however, must meet legitimate penological objectives, such as security or rehabilitation. Id. A Texas Administrative Directive gives prison officials the power to deny contact visits with minor children to inmates who have been convicted of sex crimes. The Directive ensures that criminal acts of a sexual nature do not occur during visits between children and inmates, which may jeopardize the security of the prison. The Directive furthers the legitimate goals of safety and security. The prison officials applied the Directive to Yeary. We review security-related decisions of prison officials only for reasonableness. Thorne v. Jones, 765 F.2d 1270, 1275 (5th Cir. 1985), cert. denied, 475 U.S. 1016 (1986). The sexual crime for which Yeary was convicted involved a sixteen-year-old girl. The decision to deny him physical contact with his minor children was reasonable.

Appellant contends that the Directive, which was amended in 1992, violates the Ex Post Facto Clause. The Ex Post Facto Clause, however, only applies to criminal cases. United States v. D.K.G. Appaloosas, Inc., 829 F.2d 532, 540 (5th Cir. 1987), cert. denied, 485 U.S. 976 (1988).

For the first time on appeal, Appellant suggests that the Directive's application to him violates his right to equal protection. "We will consider an issue raised for the first time on appeal only if the issue is purely a legal issue and if consideration is necessary to avoid a miscarriage of justice." Citizens Nat'l Bank v. Taylor (In re Goff), 812 F.2d 931, 933 (5th Cir. 1987). We decline to consider the equal protection issue.

Lastly, we have already denied a motion by Appellant seeking removal from his prison into a federal medical facility. We deny his motion to compel a medical exam by an independent physician. He does not show it necessary.

For the foregoing reasons, Appellant's summary judgment of the district court is AFFIRMED and Appellant's motion is DENIED.