

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50689
Conference Calendar

DAVID BRYAN BALLARD,

Plaintiff-Appellant,

versus

TRAVIS COUNTY SHERIFF'S DEPARTMENT,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-94-CV-91
- - - - -

March 21, 1995

Before GARWOOD, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

This court reviews de novo the district court's grant of the defendants' motion to dismiss under Fed. R. Civ. P. 12(b)(6). See Cinel v. Connick, 15 F.3d 1338, 1341 (5th Cir. 1994), cert. denied, 115 S. Ct. 189 (1994). All well-pleaded facts must be accepted as true and viewed in the light most favorable to the plaintiff. Id. A dismissal will not be affirmed if the allegations support relief on any possible theory. Id. The negligent failure to protect an inmate from other inmates will

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

not support a cause of action under § 1983. Davidson v. Cannon, 474 U.S. 344, 347-48 (1986).

In his complaint, Ballard alleged only that he was the victim of an attack by fellow inmates due to the negligence of the Sheriff's Department. Because Ballard's complaint included vague factual allegations amounting only to possible negligence on the part of the Sheriff's Department, he cannot support relief on any possible theory. See Davidson, 474 U.S. at 347-48. The district court did not err in dismissing his suit under Rule 12(b)(6).

AFFIRMED.