

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 94-60684  
Summary Calendar

---

BILLY W. WALLS,

Plaintiff-Appellant,

VERSUS

JERALD H. BALLARD  
and  
LORA H. SHAW,

Defendants-Appellees.

---

Appeal from the United States District Court  
for the Southern District of Texas  
(94-CV-213)

---

(May 25, 1995)

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:\*

Billy Walls appeals the dismissal, as frivolous under 28 U.S.C. § 1915(d), of his state prisoner's civil rights suit filed pursuant to 42 U.S.C. § 1983. We dismiss the appeal as frivolous.

---

\* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

I.

Walls sued Jerald Ballard, the prisoner hospital administrator, and Lora Shaw, a nurse, alleging that they deprived him of proper treatment after he tested positive for tuberculosis, in violation of the Eighth Amendment. The district court conducted a Spears<sup>1</sup> hearing and received Walls's medical records into evidence, then dismissed the action as frivolous.

II.

A.

Walls does not present any argument, authority, or reference to the record in his brief but merely states his version of the facts and requests relief. "Fed. R. App. P. 28(a)(4) requires that the appellant's argument contain the reasons he deserves the requested relief `with citation to the authorities, statutes and parts of the record relied on.'" Weaver v. Puckett, 896 F.2d 126, 128 (5th Cir.), cert. denied, 498 U.S. 966 (1990). Although we liberally construe a pro se appellant's brief, the "arguments must be briefed to be preserved." Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993) (internal quotation and citation omitted). Because Walls has presented no arguments, his appeal is frivolous and must be dismissed. See Howard v. King, 707 F.2d 215, 220 (5th Cir. 1983); see 5TH CIR. R. 42.2.

---

<sup>1</sup> Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985).

B.

Alternatively, the court can liberally construe Walls's brief to argue that the district court erred in dismissing as frivolous his claim of deliberate indifference to his serious medical needs. The alleged Eighth Amendment violation was the sole issue before the district court, and there is no apparent prejudice to the appellee from Walls's deficient brief. See Price v. Digital Equip. Corp., 846 F.2d 1026, 1028 (5th Cir. 1988). In his complaint and at the Spears hearing, he specifically alleged that the defendants violated his rights because he received medication that made him ill and that they did not give him a check-up and treatment every 30 days. Walls's assertion that he needed to be checked every 30 days was based upon a comment, by a nurse at the hospital where he was treated, that he should receive a check-up and treatment every 30 days.

A district court may dismiss an in forma pauperis proceeding if the claim has no arguable basis in law and fact. Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992). The dismissal is reviewed for abuse of discretion. Id. In order to prevail on a claim of an Eighth Amendment violation in the medical sense, a prisoner must show that a prison official was deliberately indifferent to his serious medical needs constituting unnecessary and wanton infliction of pain. Estelle v. Gamble, 429 U.S. 97, 104-06 (1976). A prison official acts with deliberate indifference "only if he knows that inmates face a substantial risk of serious harm and [he] disregards that risk by failing to take reasonable

measures to abate it." Farmer v. Brennan, 114 S. Ct. 1970, 1984 (1994); Reeves v. Collins, 27 F.3d 174, 176-77 (5th Cir. 1994). It is not enough that the plaintiff is dissatisfied with the medical treatment he receives or that he alleges more negligence. Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991); see Spears, 766 F.2d at 181.

The undisputed facts developed at the Spears hearing are as follows: Walls was given a test for tuberculosis in September 1993, and the test result was positive. Dr. Stark, the Unit Health Authority at McConnell, stated under oath that a positive test did not mean that Walls had contracted tuberculosis but that he had been exposed to tuberculosis. Walls agreed that there was no indication that he had contracted tuberculosis. He was treated with the medication Isoniazid (IMH); he had a chest x-ray on October 11, 1993; and he was taken to the hospital for an examination on February 24, 1994. Stark informed the district court that IMH was the treatment recommended by the State Department of Health and the Center for Disease Control.

Walls has not demonstrated that he had serious medical needs or that he faced a risk of serious harm. He had merely been exposed to tuberculosis, and he received the recommended treatment for such exposure. There is no arguable basis to his Eighth Amendment claim, and the district court did not abuse its discretion in dismissing the complaint as frivolous.

The appeal is DISMISSED as frivolous. See 5TH CIR. R. 42.2.