

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-10482  
Conference Calendar

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KEVIN NEAL GLASPIE,

Plaintiff-Appellant,

versus

DARWIN D. SANDERS, Warden;  
MR. STEWART, Safety officer;  
DONALDSON, Doctor,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:94-CV-171  
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(October 18, 1995)

Before POLITZ, Chief Judge, and REAVLEY and SMITH, Circuit Judges.

PER CURIAM:\*

To state a medical claim cognizable under 42 U.S.C. § 1983, a convicted prisoner must allege acts or omissions sufficiently harmful to evidence a deliberate indifference to serious medical needs. Estelle v. Gamble, 429 U.S. 97, 106 (1976). Unsuccessful medical treatment, negligence, neglect, and even medical

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

malpractice do not establish an Eighth Amendment violation.

Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991).

Following his accident, Texas state prisoner Kevin Neal Glaspie was examined at Coronado Hospital and x-rays were taken. He received the prescribed heat treatments and medication for his back injury. Although he argues that the treatment did not relieve the pain, his dissatisfaction with the treatment is insufficient to allege an Eighth Amendment claim. See Varnado, 920 F.2d at 321.

For the first time on appeal Glaspie alleges that the shower stalls are unsafe, and that he was denied due process during the disciplinary proceedings. This court need not address issues not considered by the district court. "[I]ssues raised for the first time on appeal are not reviewable by this court unless they involve purely legal questions and failure to consider them would result in manifest injustice." Varnado, 920 F.2d at 321.

This appeal is without arguable merit and thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it will be dismissed. 5th Cir. R. 42.2. We caution Glaspie that any additional frivolous appeals filed by him or on his behalf will invite the imposition of sanctions. To avoid sanctions, Glaspie is further cautioned to review all pending appeals to ensure that they do not raise arguments that are frivolous because they have been previously decided by this court.

Appeal DISMISSED. Motion for emergency relief DENIED.