

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-11037
Summary Calendar

TIMOTHY WAYNE CARTER,

Plaintiff-Appellant,

versus

POTTER COUNTY SHERIFF, ET AL.,

Defendants,

POTTER COUNTY SHERIFF;
JIMMY DON BOYDSTON; SGT. LANCASTER,

Defendants-Appellee.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:93-CV-339
- - - - -

August 30, 1996

Before JONES, DeMOSS and PARKER, Circuit Judges.

PER CURIAM:*

Timothy Wayne Carter, #563581, was given a bench trial in his action under 42 U.S.C. 1983 alleging that prison officials were deliberately indifferent to a substantial risk of attack by

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

other inmates. See Farmer v. Brennan, 114 S. Ct. 1970, 1981-82 (1994).

The district court found that defendants Boydston and Lancaster were not deliberately indifferent to Carter's safety needs because he had been placed in a separate cell to protect him from other inmates and because neither Boydston nor Lancaster were responsible for allowing Carter to leave his cell. Rule 52(a), Fed. R. Civ. P., provides in part: "Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses." See Anderson v. City of Bessemer City, 470 U.S. 564, 575 (1985). Carter has not shown that the district court was clearly erroneous in its findings.

AFFIRMED.