

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-50395
Conference Calendar

DWAYNE LAVAUGHN DUSON,

Plaintiff-Appellant,

versus

GARY PAINTER, Sheriff of Midland County, Texas;
JIM CHANCELLOR; VIRGINIA STRICKLAND, Nurse,
Medical Administrator for Midland County
Detention Center,

Defendants-Appellees.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. MO-94-CV-179

- - - - -
December 21, 1995

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

Dwayne Duson appeals the dismissal of his civil rights action as frivolous. Duson contends that the medical staff and administration of the Midland County, Texas, jail were deliberately indifferent to his serious medical needs because they failed to treat him for scabies during his stay in the jail.

It is unclear from the record whether Duson was a convicted

* Local Rule 47.5.1 provides: "The publication of opinions that 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 Pursuant to that Rule, the court has determined that this opinion should not be published.

prisoner or a pretrial detainee during his stay in the Midland County jail. We have reviewed the reviewed the record and the magistrate judge's report, which was adopted by the district court, and find no arguable abuse of discretion regarding the dismissal of Duson's Eighth Amendment deliberate-indifference contention. Additionally, Duson's allegations at most give rise to a contention that the jail medical staff was negligent. Duson's medical care was not sufficiently unreasonable to violate the Fourteenth Amendment if Duson was a pretrial detainee. *Ortega v. Rowe*, 796 F.2d 765, 767-68 (5th Cir. 1986), *cert. denied*, 481 U.S. 1013 (1987). Finally, Duson's motion for appointment of counsel on remand of his case to the district court is moot and is DENIED.

APPEAL DISMISSED. 5TH CIR. R. 42.2.