

UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT

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No. 96-20020

(Summary Calendar)

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LEROY WAFER,

Plaintiff-Appellant,

versus

DONALD GAY; LANE BLAIR; JAMES MURPHY; RANDLE  
FREEMAN; T R CARTER,

Defendants-Appellees.

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Appeal from the United States District Court  
For the Southern District of Texas

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July 2, 1996

Before HIGGINBOTHAM, DUHÉ, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Leroy Wafer, an inmate confined in the Walls Unit of the Texas Department of Criminal Justice-Institutional Division ("TDCJ-ID"), appeals the district court's grant of summary judgment denying Wafer's 42 U.S.C. § 1983 suit against Donald Gay, Lane Blair, James Murphy, Randal Freeman, and T. R. Carter, all employees of TDCJ-ID.

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\* Pursuant to Local Rule 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

In his § 1983 suit, Wafer alleged that Defendants had violated his Eighth Amendment rights by using excessive force against him during a search of his cell for contraband. Wafer further alleged that this assault was in retaliation for Wafer having filed suit for exposure to asbestos. Wafer also alleged that Defendants failed to protect him from an attack by his cell mate in which the cell mate hit him with a pad lock and bit him several times.

Having carefully reviewed the record, we find that Wafer failed to show a genuine issue as to any material fact, and Defendants were therefore entitled to judgment as a matter of law. FED. R. CIV. P. 56(c). We affirm the district court's grant of summary judgment in favor of the Defendants, substantially for the reasons stated in the district court's Order. See *Wafer v. Gay*, No. CA-H-93-1017 (S.D. Texas Dec. 12, 1995).

AFFIRMED.