

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-20235
Summary Calendar

MICHAEL W. THOMAS,

Petitioner-Appellant,

versus

WAYNE SCOTT,

Defendant-Appellee.

Appeal from the United States District Court
For the Southern District of Texas
(CA H 95-1306)

August 14, 1996

Before POLITZ, Chief Judge, HIGGINBOTHAM and DeMOSS, Circuit Judges.

PER CURIAM:*

Michael W. Thomas, a Texas state prisoner, appeals an adverse summary judgment in his civil rights action. Thomas contends that the district court erred by granting summary judgment for Wayne Scott; that Scott was deliberately

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

indifferent to his safety and failed to protect him from other prisoners; that prison officials retaliated against him by assigning him to the garden squad; and that the district court erred by granting summary judgment without ruling on his motion to compel production of documentary evidence.

We have reviewed the record and the briefs of the parties and we find no reversible error regarding the grant of summary judgment. Accordingly, we affirm the summary judgment for essentially the reasons relied upon by the district court.¹ Thomas has failed to show plain error regarding whether prison officials retaliated against him when they assigned him to the garden squad.² The district court did not abuse its discretion by granting summary judgment without ruling on Thomas's discovery request.³ Thomas's pleadings indicate no genuine issues of material fact. Finally, because of today's disposition, Thomas's request for appointment of counsel to assist him in discovery is DENIED.

The judgment appealed is AFFIRMED.

¹**Thomas v. Scott**, No. H-95-1306 (S.D.Tex. Feb. 28, 1996).

²**Douglass v. United Servs. Auto. Ass'n**, 79 F.3d 1415 (5th Cir. 1996) (*en banc*).

³**Richardson v. Henry**, 902 F.2d 414 (5th Cir.), cert. denied, 498 U.S. 901 (1990), and cert. denied, 498 U.S. 1069 (1991).