

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 96-30603  
Summary Calendar

---

VAUGHN HOWARD,

Plaintiff-Appellant,

versus

JOHN P. WHITLEY, WARDEN,  
LOUISIANA STATE PENITENTIARY, ET AL.,

Defendants-Appellees.

- - - - -  
Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 92-CV-793-A  
- - - - -

May 9, 1997

Before KING, JOLLY, and DENNIS, Circuit Judges.

PER CURIAM:\*

Vaughn Howard, Louisiana prisoner # 98700, has appealed the district court's verdict for defendants-appellees Kevin Warren and Cheryl Honore after a bench trial. Howard's contention that the district court should not have relied on standards stated in Farmer v. Brennan, 511 U.S. 825 (1994), to adjudicate his claim of deliberate indifference to his serious medical needs, has no

---

\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

merit. See Reeves v. Collins, 27 F.3d 174, 176 (5th Cir. 1994). As to this point, the district court's judgment is hereby AFFIRMED.

Howard also contends that the district court erred by rendering judgment for Warren and Honore, based on testimony which the district court rejected in favor of other testimony. To obtain relief, Howard would have to show that the district court's findings are clearly erroneous. See Fed. R. Civ. P. 52(a); Anderson v. City of Bessemer City, 470 U.S. 564, 575 (1985). The court cannot determine the merits of this claim because Howard did not include a transcript of Warren's and Honore's testimony in the appellate record. As to this claim, therefore, the appeal is hereby DISMISSED. See Richardson v. Henry, 902 F.2d 414, 416 (5th Cir. 1990).

AFFIRMED IN PART; DISMISSED IN PART.