

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40708
Summary Calendar

DWAIN ANTHONY WRIGHT,

Plaintiff-Appellant,

versus

GABRIEL D. PACHECO, ESTEBAN LOPEZ,
JESUS MARTINEZ,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-95-CV-367
- - - - -

June 11, 1999

Before REAVLEY, BENAVIDES and PARKER, Circuit Judges.

PER CURIAM:*

Dwain Wright, Texas prisoner # 661128, appeals the jury verdict of no use of excessive force by the defendant prison officers. He argues that the jury verdict was not supported by the evidence, the magistrate judge erred by allowing a prison doctor other than the one who examined Wright and who testified at Wright's Spears** hearing to testify at trial, and the magistrate judge erred by limiting the use of evidence of prior

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

** Spears v. McCotter, 766 F.2d 179 (5th Cir. 1985).

bad acts by one of the defendants to proof of only intent.

There was sufficient competent evidence supporting the jury's verdict, particularly in light of Wright's failure to request a directed verdict. See Stewart v. Thiigpen, 730 F.2d 1002, 1007 (5th Cir. 1984). Allowing Dr. Adams to testify at trial as opposed to Dr. Long was not an abuse of discretion, much less plain error. See Marcel v. Placid Oil Co., 11 F.3d 563, 567 (5th Cir. 1994); United States v. Graves, 5 F.3d 1546, 1551-53 (5th Cir. 1993). Limiting the use of evidence of prior incidences of excessive force by Officer Lopez was also not an abuse of discretion. See Marcel, 11 F.3d at 567; Fed. R. Evid. 404(b).

AFFIRMED.