

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7448
Conference Calendar

ALLEN L. BEASLEY,

Plaintiff-Appellant,

versus

LUCY W. ROBERTS,
Physician Assistant, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CA-G-91-89
- - - - -
(December 14, 1993)

Before GARWOOD, JOLLY, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Allen Beasley filed a complaint pursuant to 42 U.S.C. § 1983 against various prison officials related to his work assignment and medical treatment. The district court dismissed the suit as frivolous under 28 U.S.C. § 1915(d). A district court may dismiss a complaint as frivolous "where it lacks an arguable basis in either law or in fact." Denton v. Hernandez, ___ U.S. ___, 112 S.Ct. 1728, 1733-34, 118 L.Ed.2d 340 (1992) (quoting

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Neitzke v. Williams, 490 U.S. 319, 325 (1989)). Section 1915(d) authorizes the piercing of "the veil of the complaint's factual allegations if they are clearly baseless." Ancar v. Sara Plasma, Inc., 964 F.2d 465, 468 (5th Cir. 1992).

Allegations of wanton acts or omissions sufficiently harmful to evidence deliberate indifference to a prisoner's serious medical needs are necessary to state a claim for relief under 42 U.S.C. § 1983. Wilson v. Seiter, ___ U.S. ___, 111 S.Ct. 2321, 2323-27, 115 L.Ed.2d 271 (1991); Estelle v. Gamble, 429 U.S. 97, 104, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976). Acts of negligence, neglect, or medical malpractice are not sufficient. Fielder v. Bosshard, 590 F.2d 105, 107 (5th Cir. 1979).

With respect to the claim that prison officials subjected him to cruel and unusual punishment by assigning him to a job, raking in the fields, that was beyond his physical capabilities, Beasley alleged no deliberate or wanton acts intended to harm him. With respect to the claims that prison officials did not treat him for the pain caused by his previous injury, Beasley's allegations were inconsistent. Beasley originally asserted that the prison officials refused to give him medication for his back injury, but later admitted that he had been treated and given pain medication. Beasley stated that the officials did not deny him medical treatment, but that he disagreed with the treatment and thought that they were bad doctors. Beasley's allegations suggest at most a claim of negligence or medical malpractice, both of which are insufficient to support a § 1983 action. See Fielder, 590 F.2d at 107.

No. 93-7448
-3-

AFFIRMED.