

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30018
Conference Calendar

WELDON MOORE,

Plaintiff-Appellant,

versus

CHARLES C. FOTI, JR., ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. CA-92-3403-L-4-I
- - - - -
(July 21, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Weldon Moore filed a civil rights complaint pursuant to 42 U.S.C. § 1983 against Criminal Sheriff Charles C. Foti, Jr., Corpsman D. Pauley, and Nurse Sherwood alleging that he was subjected to deliberate indifference to his serious medical needs. In order to prevail, Moore must have shown that the prison officials engaged in wanton acts or omissions sufficiently harmful to evidence deliberate indifference to his serious medical needs. Wilson v. Seiter, 501 U.S. 294, 296-305, 111

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

S.Ct. 2321, 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); see Gamble, 429 U.S. at 105-06.

The undisputed record shows nothing to demonstrate a wanton infliction of pain. Moore informed prison officials that he had a liver infection and was sent within two days to be examined by Dr. Gross. Dr. Gross ordered blood tests to be taken, but this test was not done immediately because it was a Friday and the blood sample was to be taken the following Monday. Although the sample was not taken the following Monday, Moore does not allege that any prison personnel deliberately delayed the tests in order to cause him to suffer. Moore does allege that he experienced pain as a result of his medical condition, but this is not the same as an allegation that prison officials knowingly ignored his condition. See Farmer v. Brennan, ___ U.S. ___, 114 S.Ct. 1970, 1994 WL 237595 at 12 (June 6, 1994). Moore's complaint amounts to no more than one of negligence, neglect, or medical malpractice. Therefore, the district court was correct in dismissing Moore's complaint for deliberate indifference to his serious medical needs.

AFFIRMED.