

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 3, 2022

Lyle W. Cayce
Clerk

No. 21-40151
Summary Calendar

HAROLD MILLICAN,

Plaintiff—Appellant,

versus

TEXAS DEPARTMENT OF CRIMINAL JUSTICE, *also known as* TDCJ;
CHARLES SIRINGI; BRYAN COLLIER,

Defendants—Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:18-CV-616

Before SOUTHWICK, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:*

Harold Millican, Texas prisoner # 2326436, filed suit pursuant to 42 U.S.C. § 1983 against Texas Department of Criminal Justice (TDCJ) Executive Director Bryan Collier and Warden Charles Siringi, arising from

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-40151

their alleged delay in providing medical treatment for a bacterial infection.¹ The district court dismissed all of Millican's claims, except those alleging that Siringi violated the Eighth Amendment through his personal involvement in the alleged delay in treatment and through his alleged failure to supervise his subordinates by not directing them to take Millican to the hospital. The district court subsequently granted Siringi's motion for summary judgment. Millican timely appealed.

Millican moves for the appointment of counsel. However, because he has not shown that he is indigent or that there are exceptional circumstances justifying the appointment of counsel, his motion is denied. *See Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir. 1982); 28 U.S.C. § 1915(e)(1).

He argues that his former attorney rendered ineffective assistance in connection with the proceedings before the district court. We will not consider this argument, as the right to effective assistance of counsel does not apply to civil proceedings. *See Sanchez v. U.S. Postal Serv.*, 785 F.2d 1236, 1237 (5th Cir. 1986).

Insofar as Millican now purports to raise objections to certain evidence in the record that he failed to timely raise in the district court, the arguments are not properly before us. *See McCloud River R.R. Co. v. Sabine River Forest Prods., Inc.*, 735 F.2d 879, 882 (5th Cir. 1984); *see also Smith v. Ochsner Health Sys.*, 956 F.3d 681, 688-89 & n.2 (5th Cir. 2020). Moreover, Millican does not explain how the summary judgment evidence supports a conclusion that Siringi was deliberately indifferent to his serious medical needs, was not entitled to qualified immunity, or could be held liable as a supervising official. *See Mendoza v. Lynaugh*, 989 F.2d 191, 195 (5th Cir.

¹ TDCJ was named a defendant in Millican's original complaint but was removed as a defendant in Millican's operative complaint.

No. 21-40151

1993); *Alton v. Tex. A&M Univ.*, 168 F.3d 196, 201 (5th Cir. 1999); *Petzold v. Rostollan*, 946 F.3d 242, 249 (5th Cir. 2019). By failing to provide any analysis of these issues, Millican has abandoned them. *See Yohey v. Collins*, 985 F.2d at 224-25. He has also abandoned, for failure to brief, any challenge to the district court's earlier dismissal of his other claims against Collier and Siringi. *See id.*

We will not consider the new evidence that Millican has submitted for the first time on appeal, *see Theriot v. Par. of Jefferson*, 185 F.3d 477, 491 n.26 (5th Cir. 1999), and we will not consider his newly raised claim that prison officials subjected him to cruel and unusual punishment by handcuffing him while transporting him to the hospital, *Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999).

In light of the foregoing, Millican's motion for appointment of counsel is DENIED, and the district court's judgment is AFFIRMED.