

June 9, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-10148
Summary Calendar

DAVIE HARRISON,

Plaintiff-Appellant,

versus

A. DOMINQUEZ, Doctor; NFN BAXTER; C. C. BELL, Warden;
NFN FILLION; NFN SHORT; K. EVANS, LVN; H. LEDFORD,
Officer; JESSIE CASTILLO, Officer; NFN BEACH, Captain;
NFN GREMSLEY, Nurse; RICHARD J. ROUCH, Gray County
District Attorney; JANIE COCKRELL, DIRECTOR, TEXAS
DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION;
JOE NUNN, Assistant Warden,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:02-CV-160

Before JOLLY, DAVIS, and OWEN, Circuit Judges.

PER CURIAM:*

Davie Harrison, Texas prisoner no. 696677, appeals the dismissal of his 42 U.S.C. § 1983 action for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B). Harrison argues that the district court erred in dismissing his claim under FED. R. CIV. P. 12(b)(6) before issuing service of process and that the court

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

used the standard of 28 U.S.C. § 1915. Harrison's argument fails because the district court dismissed his suit pursuant to 28 U.S.C. § 1915 rather than FED. R. Civ. P. 12(b)(6).

Harrison also contends that defendants Dr. Dominguez and Nurse Evans failed to provide him with adequate medical care and that they were deliberately indifferent to his serious medical needs.

Harrison has failed to allege facts to establish deliberate indifference to a serious medical need as is required in order to proceed under the Eighth Amendment and 42 U.S.C. § 1983. See Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Harrison also argues that the district court erred in declining to exercise supplemental jurisdiction over his state law claims. Because the district court dismissed all of Harrison's federal claims, the dismissal of the remaining state claims was not an abuse of discretion. Bass v. Parkwood Hosp., 180 F.3d 234, 246 (5th Cir. 1999). The judgment of the district court is AFFIRMED. Harrison's motions for a preliminary injunction pending appeal, a temporary restraining order, and request for relocation are DENIED.