

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 8, 2010

No. 09-10016

Charles R. Fulbruge III
Clerk

DEON SILVEN WESBER

Plaintiff - Appellant

v.

DR LAVELLE; DR ADAMES; GARY L MESSER; LIEUTENANT ISRAEL L
REYNA; SERGEANT TOMMY L CHISUM

Defendants - Appellees

Appeal from the United States District Court
for the Northern District of Texas
No. 2:08-CV-112

Before JOLLY and DENNIS, Circuit Judges, and BOYLE, District Judge.*

PER CURIAM:**

We affirm the district court's dismissal of the claims against Doctors Lavelle and Adames. We vacate and remand for a *Spears*¹ hearing with respect to the claims against Messer, Reyna, and Chisum to allow the plaintiff to provide the factual details to determine whether he asserts a viable claim under *Farmer*

* District Judge of the Northern District of Texas, sitting by designation.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

¹ *Spears v. McCotter*, 766 F.2d 179 (5th Cir.1985).

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v. Brennan, 511 U.S. 825 (1994), and its progeny. At the *Spears* hearing, the plaintiff shall detail all the medical evidence that supports his claim of disability, the specific work assignments that he performed that injured his back, the nature of such injuries and how they occurred, who made such work assignments, and the specific evidence of exactly what each defendant knew about the plaintiff's disability, how each defendant knew of the disability, and all other subjective knowledge of each defendant concerning the "hoe field squad" work assignment that shows deliberate indifference by such defendant to Wesber's serious medical requirements. The district court shall thereafter issue such orders or conduct such further proceedings as are, in its judgment, necessary and appropriate. For any appellate review of this court, a notice of appeal must be filed from the final judgment of the district court.

AFFIRMED in part; VACATED in part; and REMANDED.