

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 08-1599

Beverly Sue Gallup,

*

*

Plaintiff - Appellant,

*

*

Estate of William H. Calvert;
Gladys Skaggs; Jackie Calvert;
Robert Calvert; Judy Reese,

*

*

*

*

Plaintiffs,

*

v.

*

Appeal from the United States
District Court for the
Western District of Missouri.

*

*

Michael Drought; John Barnes;
Calvin York,

*

*

[UNPUBLISHED]

*

Defendants,

*

*

Jason Booker,

*

*

Defendant - Appellee,

*

*

Robert Bell; N, Hogan; J. Hayes;
Murdock; K. Nash; J. Shoults; McKee;
Allen Harrison; Michael Bowersox;
Brian Goeke; Rick Miller;
Null and Sons Funeral Home,

*

*

*

*

*

Defendants.

*

Submitted: October 17, 2008

Filed: January 28, 2009

Before GRUENDER, BEAM, and SHEPHERD, Circuit Judges.

PER CURIAM.

Beverly Gallup, as personal representative of William Calvert's estate, appeals the district court's¹ adverse grant of summary judgment. Calvert died while in the custody of the Missouri Department of Corrections (DOC). Immediately prior to his death, Calvert was incarcerated in the administrative segregation unit at South Central Correctional Center. Officer Jason Booker was the correctional officer assigned to perform observational checks on Calvert on April 14, 2004. On one of these checks, Officer Booker found Calvert nonresponsive and notified a nurse who was nearby.

Gallup sued Officer Booker pursuant to 42 U.S.C. § 1983,² alleging that Officer Booker was liable for the death because he had failed to respond to the decedent's need for emergency medical treatment. Having conducted a de novo review of the record, see Phillips v. Mathews, 547 F.3d 905, 909 (8th Cir. 2008) (standard of review), we agree with the district court that "there is no evidence in the record that supports [Gallup's] argument that defendant Booker deliberately disregarded the decedent's medical needs. While the events that resulted in the death of William

¹The Honorable Scott O. Wright, United States District Judge for the Western District of Missouri.

²The estate initially sued 14 defendants but, over the course of the litigation, dismissed 13 defendants from the case such that Officer Booker was the only remaining defendant for purposes of summary judgment.

Calvert are tragic, defendant Jason Booker is not liable for this death.” Appellee’s App. at 17; see Olson v. Bloomberg, 339 F.3d 730, 735 (8th Cir. 2003) (“A prisoner’s Eighth Amendment rights are violated if prison officials show ‘deliberate indifference’ to the prisoner’s ‘serious medical needs.’” (quoting Estelle v. Gamble, 429 U.S. 97, 106 (1976))). Thus, we affirm the district court’s grant of summary judgment. See 8th Cir. R. 47B.
