

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GABRIEL DARRAMON,
TDCJ-CID #630371,

Plaintiff,

v.

SHANTA CRAWFORD, et al.,

Defendants.

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CIVIL ACTION NO. H-06-0270

MEMORANDUM OPINION AND ORDER

Gabriel Darramon is a TDCJ-CID inmate who has complained that the defendants, health care officials working in the TDCJ-CID, have denied him dentures. The defendants filed a Motion for Summary Judgment arguing that the dentures were not medically necessary because Darramon had not lost any weight. The court denied the defendants' motion because the record did not establish as a matter of law that the defendants had taken adequate measures to avoid "unnecessary and wanton infliction of pain." Vasquez v. Dretke, 226 Fed. Appx. 338 (5th Cir. Mar. 9, 2007), citing 97 S.Ct. 285, 291 (1976). A recent decision by the Fifth Circuit supports the finding that a lack of dentures can constitute a serious medical need where the inmate complains of pain and swollen gums in addition to weight loss. See Huffman v. Linthicum, No. 06-20917 (5th Cir. Feb. 6, 2008). The court held a Spears¹ hearing on

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

February 20, 2008, to determine if the defendants were deliberately ignoring complaints of pain, illness, or disfigurement by Darramon with regard to his lack of teeth.

Dr. Toole, an official with the University of Texas Medical Branch (UTMB), which is the healthcare provider for TDCJ-CID, explained that inmates are only given dentures if there is a medical need. Usually, an inmate is determined to have a need if he experiences weight loss. Darramon's records indicate that he has not lost any weight and currently weighed approximately 180 pounds, which is sufficient for a man of his size. Dr. Toole further explained that the food served to TDCJ-CID inmates is considered to be soft enough for consumption although some inmates are provided food that is mechanically blended for easier digestion if they request it.

Darramon testified that he was not given a special diet and was told to eat slowly although he asserted that he was not given enough time to eat. He also claimed that he had lost weight. A trip to the courthouse scales verified that Darramon weighed 179-3/4 pounds. When asked about his eating difficulties, Darramon responded that he had to soak his breakfast toast in milk in order to soften it. He did not deny that he was served soft foods such as eggs but merely complained that he needed more time to consume them.


The court conducted an inquiry regarding Darramon's dental complaints over the last two years, and the record reflected that

Darramon had not made any requests for dental treatment since February of 2006. Darramon responded that he had made several written requests in November of 2007 and produced the originals, which had been submitted to a TDCJ-CID property officer, not to medical or dental officials. See Docket Entry No. 40. The requests, which were written in Spanish, were for a toothbrush and tooth powder.

As stated in the court's prior Memorandum Opinion and Order (Docket Entry No. 38), the remaining three defendants are entitled to qualified immunity because the law was not clearly established when he first made his request for dentures. This action was retained to determine whether Darramon is entitled to injunctive relief regarding dental care. Based on the record and the evidence at the Spears hearing the court finds that Darramon is not entitled to injunctive relief. The court understands Darramon's frustration with the decision to deny him a set of dentures, but there is no evidence that any prison official wantonly ignored a serious medical need of Darramon.

The State has agreed to comply with Darramon's request for a toothbrush and toothpaste. Therefore, this action will be dismissed. 28 U.S.C. § 1915A.

SIGNED at Houston, Texas, on this 21st day of February, 2008.



SIM LAKE
UNITED STATES DISTRICT JUDGE