

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 01-31058  
Summary Calendar

---

FRANCENE RILEY, Individually and as tutrix,  
on behalf of Daniel A Cross

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA; ET AL

Defendants

UNITED STATES OF AMERICA

Defendant - Appellee

-----  
Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 99-CV-951  
-----

September 10, 2002

Before KING, Chief Judge, and WIENER and PARKER, Circuit Judges.

PER CURIAM:\*

Francene Riley ("Riley"), individually and as tutrix for Daniel Cross ("Cross"), appeals the district court's judgment in favor of the United States of America in her lawsuit brought pursuant to the Federal Tort Claims Act. Riley argues that the

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

district court erroneously determined that Dr. Carl A. Karr and Captain Ronald Ray were not negligent in Cross' death.

A district court's findings of fact are reviewed for clear error in a light most favorable to upholding the district court's finding. See FED. R. CIV. P. 52(a); Travelhost, Inc. v. Blandford, 68 F.3d 958, 965 (5th Cir. 1995). If the district court's account of the evidence is plausible in light of the entire record, this court may not reverse it even though it may have weighed the evidence differently. See United States v. Bermea, 30 F.3d 1539, 1575 (5th Cir. 1994).

Dr. Steven A. Conrad and Dr. Stephen G. Jenkinson testified that under the circumstances presented, Dr. Carl A. Karr and Captain Ronald Ray followed the proper standard of care and were not negligent in Cross' death. Although Dr. Vincent J. Bennett testified that Cross' medical care was substandard because there was no confirmation of whether the endotracheal tube was inserted properly, there was also evidence presented that under the circumstances Dr. Karr's and Captain Ray's conduct was not improper.

For the foregoing reasons, the ruling of the district court is AFFIRMED.