

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 99-50512  
Summary Calendar

---

VINCENT BEASLEY,

Plaintiff-Appellant,

versus

BERNEY KESZLER, ET AL,

Defendants,

BERNEY KESZLER; JOSEPH GILL;  
MARTHA SYRETT,

Defendants-Appellees.

-----  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. SA-97-CV-257  
-----

May 11, 2000

Before JOLLY, JONES and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Vincent Beasley, Texas prisoner no. 604719, appeals the district court's dismissal of his 42 U.S.C. § 1983 claims against defendants Joseph Gill and Martha Syrett as frivolous and for failure to state a claim; Beasley also appeals the district court's order granting summary judgment to Defendant Dr. Berney Keszler.

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The district court did not err in determining that Beasley failed to state a claim against Gill and Syrett as he has failed to allege their personal involvement in his allegations that Keszler and other medical personnel were deliberately indifferent to his serious medical needs. See Woods v. Edwards, 51 F.3d 577, 583 (5th Cir. 1995).

The district court did not err granting summary judgment in favor of Dr. Keszler. The crux of the dispute between the parties is whether Beasley's ailments were too severe to allow him to perform certain prison labor. Beasley's allegations are, at most, complaints of medical malpractice which do not rise to the level of a constitutional violation. See Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991).

AFFIRMED.