

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

JUL 15 1998

PATRICK FISHER
Clerk

GEORGE A. WILLIAMS,
Plaintiff-Appellant,

v.

CORRECTIONAL MEDICAL
SYSTEMS, INC.; MIKE
THOMPSON, Administrator;
COUNTY OF EL PASO; JOHN
ANDERSON, Sheriff; CAPT. HUNT,
et al., officials, deputies and
employees as discovery reveals,

Defendants-Appellees.

No. 97-1433
(D.C. No. 96-Z-2418)
(D. Colo.)

ORDER AND JUDGMENT *

Before **TACHA** and **McKAY**, Circuit Judges, and **BROWN**,** Senior District
Judge.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

** Honorable Wesley E. Brown, Senior District Judge, United States District Court for the District of Kansas, sitting by designation.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Plaintiff George A. Williams brought this action in Colorado state court asserting tort claims against defendants relating to his care and treatment while he was a prisoner in the El Paso County Jail. Defendants removed the case to federal court on the basis that plaintiff appeared to raise claims under 42 U.S.C. § 1983, and then moved for summary judgment. Plaintiff did not respond to the summary judgment motions. A magistrate judge recommended that the motions be granted on the bases that the El Paso County Sheriff's office and the county were not amenable to suit under § 1983; that plaintiff had failed to allege any personal action by any of the individual county defendants; and that plaintiff had failed to allege or show any deliberate indifference to his serious medical needs that could subject any of the defendants to liability under § 1983. Plaintiff filed objections to the magistrate judge's report and recommendation. After conducting a de novo review, the district court adopted the magistrate judge's report and recommendation and granted summary judgment in defendants' favor. Plaintiff appeals.

We review a district court's grant of summary judgment de novo. See Kaul v. Stephan, 83 F.3d 1208, 1212 (10th Cir. 1996). On appeal, plaintiff contends only that defendants denied him his right to independent personal decisions and the freedom to choose a health care facility, which he claims are guaranteed by Colo. Rev. Stat. § 25-1-120(1)(a) and (m). These statutory protections apply to patients in nursing facilities, not prisons, and appear completely irrelevant to plaintiff's claims. Moreover, plaintiff has not even alleged, much less provided evidentiary support for, any specific facts in support of his general claims. Nonetheless, we note that we have reviewed the magistrate judge's report and recommendation and district court's order granting summary judgment and see no patent errors.

Plaintiff's motion for appointment of counsel is DENIED. The judgment of the United States District Court for the District of Colorado is AFFIRMED. The mandate shall issue forthwith.

Entered for the Court

Wesley E. Brown
Senior District Judge