

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

LINDSEY WRIGHT)	
)	Civil Action No. 7:00-CV-00812
Plaintiff,)	
v.)	<u>Memorandum Opinion</u>
)	
DILLWYN CORRECTIONAL)	By: Samuel G. Wilson
CENTER WARDEN,)	Chief United States District Judge
LISA M. EDWARDS)	
)	
Defendants.)	

Lindsey Wright, a Virginia inmate proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983 on October 16, 2000, claiming that he is being denied adequate medical treatment. On November 14, 200, Wright filed a motion to amend in response to the court advising him to allege more specific facts regarding his claim and who was responsible for the alleged denial of his constitutional rights. As a result of Wright's motion to amend, filed on November 17, 2000, the Warden is no longer a defendant, and the action is proceeding against Alice Dunn as the sole defendant. By order entered December 11, 2000, two of Wright's claims, regarding inadequate footwear and improper housing were dismissed, leaving only his claim against Dunn for denial of medical care in violation of his Eighth Amendment right to be free from cruel and unusual punishment. This matter is before the court on Dunn's motion to dismiss or for summary judgment.

Because the parties submitted documents and affidavits outside the pleadings, the court will treat Dunn's motion to dismiss as one for summary judgment. Fed. R. Civ. P. 12(b). On motion for summary judgment, the court must view the facts, and the inferences to be drawn from those facts, in the light most favorable to the party opposing the motion. See Smith v. Virginia

Commonwealth University, 84 F.3d 672, 675 (4th Cir. 1996). Summary judgment is proper only where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). For the following reasons, the court will grant Dunn's motion for summary judgment.

I.

Wright alleges the following. He was received at Dillwyn Correctional Center ("Dillwyn") on December 29, 1999. On January 15, 2000, Wright received a medical examination and indicated to the examiner that he would need low soft shoes for daily use. Dr. Ramsey then issued Wright a pair of canvas tennis shoes in response to his complaints of chronic feet and back pain. On October 31, 2000, an on-duty nurse, other than Dunn, gave Wright cream medication for the cracks in his feet and referred him to the doctor. On November 3, 2000, Wright saw Dr. Bollinger, another doctor at Dillwyn, to determine the type of boots Wright should wear. Dr. Bollinger determined that Wright should wear regular soft-soled boots. On November 15, 2000, Wright complained of chronic feet and back pain and was given exercise recommendations by Dr. Bolinger.

II.

Wright alleges that Dunn has repeatedly denied his requests for medical treatment and prevented him from receiving medical treatment from other medical personnel in violation of his Eighth Amendment right to be free from cruel and unusual punishment. To state a cognizable Eighth Amendment claim for denial of medical care, Wright must demonstrate that Dunn exhibited deliberate indifference to his serious medical needs. Estelle v. Gamble, 429 U.S. 97

(1976). A person shows deliberate indifference by completely failing to consider an inmate's complaints or by acting intentionally to delay or deny the prisoner access to medical care. Id. For Dunn to have been deliberately indifferent, she must have drawn a subjective inference that certain actions or failure to take action would subject Wright to unnecessary and significant pain and suffering or would expose Wright to a substantial risk of serious harm. See Johnson v. Quinones, 145 F.3d 164, 167 (4th Cir. 1998).

Dunn filed her motion for summary judgment on February 28, 2001. In his response to Dunn's motion for summary judgment, Wright focuses on his inability to procure the soft-soled boots without returning the tennis shoes.¹ However, Wright's claim that the medical staff failed to provide adequate footwear was dismissed earlier in the proceedings. Wright has not produced any evidence tending to demonstrate deliberate indifference on the part of Dunn. Defendant's affidavit and exhibits tend to show that Wright received adequate medical attention while incarcerated at Dillwyn. Even viewing the facts and inferences in the light most favorable to Wright, the court is unable to find a genuine issue as to any material fact, and finds that Dunn is entitled to judgment as a matter of law.

III.

¹ After Dr. Ramsey issued Wright tennis shoes, Wright determined that he also needed soft-soled boots so that he could trade off. However, the administration told Wright that he could have one or the other but not both. Therefore, it is within Wright's power to obtain whatever shoes he prefers.

For the reasons stated, the court grants Dunn's motion for summary judgment. An appropriate order will be entered this day.

ENTER: this _____ day of June, 2001.

CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT

**FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

LINDSEY WRIGHT)	
)	Civil Action No. 7:00-CV-00812
Plaintiff,)	
)	<u>FINAL ORDER</u>
v.)	
)	
DILLWYN CORRECTIONAL CENTER WARDEN, LISA M. EDWARDS)	By: Samuel G. Wilson
)	Chief United States District Judge
Defendants.)	

In accordance with the Memorandum Opinion entered this day, it is hereby **ORDERED** and **ADJUDGED** that Defendant's motion for summary judgment is **GRANTED**.

It is further **ORDERED** that this action be stricken from the docket of the court. Wright is advised that he may appeal the court's decisions by filing a notice of appeal in this court within thirty (30) day of the date of entry of this Order in accordance with Rules 3 and 4 of the Federal Rules of Appellate Procedure.

ENTER this _____ day of June, 2001.

CHIEF UNITED STATES DISTRICT JUDGE

