

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

RUDOLPH LEE CRAWLEY, JR.,)	
)	
Plaintiff,)	Civil Action No. 7:01cv00345
)	
v.)	<u>Memorandum Opinion</u>
)	
STEVE SALMON,)	By: Samuel G. Wilson
)	Chief United States District Judge
Defendant.)	

Crawley, a Virginia inmate proceeding pro se, brings this action under 42 U.S.C. § 1983, alleging that Lieutenant Steve Salmon, Deputy Chief Jailer at the Danville City Jail, denied him constitutionally adequate medical care.¹ Salmon filed a motion to dismiss under Rule 12(b)(6), or alternatively, for summary judgment under Rule 56(b) of the Federal Rules of Civil Procedure. For the reasons stated below, the court will grant Salmon’s motion for summary judgment.

I.

Crawley was arrested and booked at the Danville City Jail on November 3, 2000. Officer E.V. Carter admitted Crawley and gave him an initial medical and dental screening. At that time, Crawley denied having dental problems or any medical condition requiring medications.

On November 6, Crawley asked Nurse Turner if he could see a dentist for his tooth ache. Turner asked him why he had not seen a dentist before he was incarcerated. According to Turner, Crawley replied that he had his own medication for pain and that since he was in jail “he may as well get his teeth taken care of.” Turner told Crawley that under the prison’s dental policy

¹ Crawley also claimed that parole officer Sidney Edwards violated his constitutional rights by mistakenly reporting that Crawley missed a drug class. On June 15, 2001, the court dismissed this claim pursuant to 28 U.S.C. § 1915(e)(2).

he would have to pay the cost of non-emergency treatment in advance. Turner examined Crawley to determine if he needed emergency treatment. She found no signs of abscess and saw no swelling, pus or pus pocket. According to Turner, Crawley had no complaints of severe pain and only said that his tooth hurt sometimes. Prison officials gave Crawley non-prescription pain medication (Ibuprofen and/or Tylenol) on four dates in November, 2000, one date in January, 2001, and three dates in March, 2001.

In his response to Salmon's motion for summary judgment, Crawley does not contradict Nurse Turner's version of events. Crawley argues that although he did not have a medical problem when he was initially screened, he developed a severe tooth ache while in jail. He claims that when he talked to Nurse Turner about seeing a dentist, she "boldly" stated: "you can't go to the dentist." Crawley asked her why, and she stated that the only way he could see a dentist would be if his jaw was "swollen to the point where it looks as if a golf ball was in your mouth." Crawley said that the last time he was in jail he was able to see the dentist. Turner replied that the oral surgeon only wanted to see inmates who had an abscess or a swollen jaw, and she asked him why he did not have his tooth removed before he came to jail. Crawley replied "I had no problem before I came here, but now that I [am] here, it is the jail['s] responsibility to take care [of] whatever medical problems I incur."

On May 7, 2001, Crawley filed a written grievance about the Danville City Jail's failure to provide him dental care. Sergeant W.W. Tucker responded to the grievance and directed Crawley to submit a medical request pursuant to Danville City Jail policy. According to Crawley, he did submit medical requests, but they were ignored by the staff. According to Salmon, however, there is no record of Crawley submitting a medical request form on or after May 7, 2001. Had

Crawley done so, Salmon claims that a staff physician or staff nurse would have examined Crawley to see if his condition required medical treatment. Salmon also states in his affidavit that no physician or nurse ever determined that Crawley had a serious dental problem requiring emergency treatment and that at no time was Salmon, Nurse Turner or any other staff member deliberately indifferent to a serious medical or dental need that Crawley may have had.

On May 12, 2001, Crawley filed his pro se complaint alleging that “he had been trying to get a tooth pulled for the past six months” while at the Danville City Jail, but had been denied treatment. He alleged that “he had been told that Lt. Steve Soloman [sic] had the last say.”

II.

Prisoners are entitled to reasonable medical care and can sue prison officials under § 1983 for violations of the Eighth Amendment’s prohibition of cruel and unusual punishments. To state an Eighth Amendment claim for denial of medical care, Crawley must establish that Salmon was deliberately indifferent to Crawley’s serious medical need. Estelle v. Gamble, 429 U.S. 97 (1976).

There is no clear definition of what constitutes a serious medical need. However, a “medical need is serious if it is one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention.” Ramos v. Lamm, 639 F.2d 559, 575 (10th Cir.1980), cert. denied, 450 U.S. 1041 (1981) (quotations omitted).

To establish that a health care provider's actions constitute deliberate indifference “the treatment must be so grossly incompetent, inadequate, or excessive as to shock the conscience or to be intolerable to fundamental fairness.” Miltier v. Beorn, 896 F.2d 848, 852 (4th Cir.1990). “Deliberate indifference may be demonstrated by either actual intent or reckless disregard. A

defendant acts recklessly by disregarding a substantial risk of danger that is either known to the defendant or which would be apparent to a reasonable person in the defendant's position.” Id. (citations omitted). Mere malpractice or negligent denial of medical treatment, however, does not violate the Eighth Amendment. Id.; Johnson v. Quinones, 145 F.3d 164, 167 (4th Cir. 1998).

Viewing the facts in the light most favorable to Crawley, the court finds that Salmon was not deliberately indifferent to Crawley’s serious medical need. First, Crawley has not shown that he had a serious medical need. At most, Crawley suffered a tooth ache. When Nurse Turner examined Crawley she did not see any pus, swelling or signs of abscess. Also, according to Turner, Crawley did not complain of severe pain. Crawley’s tooth ache was not so obviously serious that even a lay person would easily recognize the necessity for dental treatment. Crawley has not alleged facts demonstrating that he suffered a serious medical need.

Furthermore, even if his tooth ache did constitute a serious medical need, Crawley has not shown that Salmon was deliberately indifferent to this serious medical need. Other than a conclusory allegation that somebody told Crawley that Salmon was responsible for the denial of his medical treatment, Crawley has alleged no facts to support his claim that Salmon was deliberately indifferent to his serious medical need.

To bring a medical treatment claim against non-medical prison personnel, “an inmate must show that such officials were personally involved with a denial of treatment, deliberately interfered with prison doctors' treatment, or tacitly authorized or were indifferent to the prison physicians' misconduct.” Shelton v. Angelone, 148 F. Supp. 2d 670, 678-79 (W.D. Va. 2001). “Prison personnel may rely on the opinion of the medical staff as to the proper course of treatment.” Id.; see also Smith v. Barry, 985 F.2d 180, 184 (4th Cir.1993) (affirming directed

verdict for prison guards not in position to "act meaningfully" with regard to inmate's medical needs).

Here, Salmon relied on the opinion of his medical staff as to the proper course of treatment for Crawley's tooth ache. Nurse Turner examined Crawley, determined that he did not need emergency dental care, and gave him pain medication. Crawley has not alleged facts to establish that Salmon was personally involved in his examination and treatment or that Crawley interfered with or denied him medical care.

III.

For the foregoing reasons, the court will grant Salmon's motion for summary judgment. The court will enter an appropriate order this day.

ENTER: This ___ day of March, 2002.

CHIEF UNITED STATES DISTRICT JUDGE

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

RUDOLPH LEE CRAWLEY, JR.,)	
)	
Plaintiff,)	Civil Action No. 7:01cv00345
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v.)	<u>FINAL ORDER</u>
)	
STEVE SALMON,)	By: Samuel G. Wilson
)	Chief United States District Judge
Defendant.)	

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

It is further **ORDERED** that this case be stricken from the docket of the court.

Steve Salmon is advised that he may appeal this decision pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure by filing a notice of appeal in this court within thirty (30) days of the date of entry of this Order.

The Clerk is directed to send certified copies of this Order and the accompanying Memorandum Opinion to all parties.

ENTER: This ____ day of March, 2002.

CHIEF UNITED STATES DISTRICT JUDGE