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United States Court of Appeals
For the First Circuit

No. 03-2114

CHARLES SIMON,

Plaintiff, Appellant,

v.

FEDERAL PRISON INDUSTRIES, ET AL.,

Defendants, Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Joseph L. Tauro, U.S. District Judge]

Before

Lynch, Lipez and Howard,
Circuit Judges.

Charles Simon on brief pro se.

March 31, 2004

Per Curiam. We affirm the order of dismissal substantially for the reasons recited in the district court's thorough decision. We add simply that any Eighth Amendment Bivens claim against defendant Robinson in her personal capacity would fail on qualified-immunity grounds, inasmuch as no constitutional right to post-release medical treatment in these circumstances has been clearly established. See generally DeShaney v. Winnebago County Dep't of Social Services, 489 U.S. 189, 200 (1989) (The affirmative duty to protect [an inmate] arises ... from the limitation which [the government] has imposed on his freedom to act on his own behalf.") (citing Estelle v. Gamble, 429 U.S. 97, 103 (1976)). Nor do we find anything in Granade v. United States, 356 F.2d 837 (2d Cir. 1966), that would call the validity of 28 C.F.R. § 301.317 into question.

The motions for oral argument and for expedited review are denied.

Affirmed.