NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted March 6, 2024*
Decided March 14, 2024

Before

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 23-1687

ISRAEL RUIZ, *Plaintiff-Appellant*,	Appeal from the United States District Court for the Central District of Illinois.
v.	No. 18-4155-CSB
CATALINO BAUTISTA, et al., *Defendants-Appellees*.	Colin S. Bruce, *Judge*.

O R D E R

Israel Ruiz, who was formerly incarcerated at Hill Correctional Center in Galesburg, Illinois, sued medical professionals and administrators at his prison, along with the prison's healthcare contractor, for violations of his First and Eighth Amendment rights. *See* 42 U.S.C. § 1983. The district court entered summary judgment in favor of the defendants. We affirm.

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* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

Ruiz injured his shoulder while lifting weights. He visited Paula Young (a licensed practical nurse) who gave him ibuprofen, ordered an ice pack, educated him about safety measures, and referred him to a doctor. Two weeks later, Dr. Catalino Bautista assessed Ruiz's shoulder; he prescribed naproxen (a nonsteroidal anti-inflammatory drug) for pain relief and ordered an x-ray, which revealed no fracture or dislocation. At a follow-up appointment the next month, Dr. Bautista observed that Ruiz's condition had improved, so he lowered the prescribed dosage of naproxen and recommended exercises to help with Ruiz's range of motion. Ruiz says that, during this follow-up appointment, he told Dr. Bautista that he planned to file a grievance about the long wait time, after which Dr. Bautista became "host[i]le" and told Ruiz that he would not give him any other medication or an MRI.

Over the next eighteen months, Ruiz saw various medical providers, including Dr. Bautista, and he mentioned his shoulder pain on only three occasions. At the first appointment, which took place over six months after Ruiz's follow-up visit with Dr. Bautista and was for concerns about irritable bowel syndrome, the non-defendant provider agreed to assess Ruiz's shoulder pain, but Ruiz refused to submit another co-pay and left. At the second appointment (about a cyst), Lara Vollmer, a nurse practitioner, assessed that the shoulder pain was not an emergency condition and advised Ruiz to sign up for sick call if the pain continued. And in the third appointment, the non-defendant provider noted that Ruiz's range of motion was normal, prescribed ibuprofen, and advised him to return if the pain increased.

Throughout this time, Ruiz submitted six grievances related to his ongoing shoulder pain. Each time, the prison's Health Care Unit Administrator, Lois Lindorff, reviewed Ruiz's medical files and determined that the grievances were without merit because he was receiving appropriate treatment. The grievances, and Ruiz's appeals to the Administrative Review Board, were all denied.

Ruiz sued Young, Dr. Bautista, Vollmer, and their employer, Wexford Health Sources, Inc. (collectively, "the Wexford defendants"); and Lindorff and the prison officials who processed his grievances ("the State defendants"). He alleged that all the individual defendants were deliberately indifferent to his pain, in violation of the Eighth Amendment, and that Wexford had a policy of delaying physical therapy, which caused him prolonged pain and suffering. 42 U.S.C. § 1983; *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978). He also alleged that Dr. Bautista violated his First Amendment rights by refusing to provide medical treatment in retaliation for his threat to file a grievance about the doctor.

The district court initially dismissed the case with prejudice, finding that Ruiz had lied on his application to proceed in forma pauperis. We remanded for further proceedings, and litigation of the merits resumed.

Ruiz then moved for the recruitment of counsel. He argued that he could not litigate the case on his own because of health problems, limited education, curtailed access to the law library, and his transfer to a different prison where he was without the person who had been helping him with the case. The district court granted the motion but cautioned Ruiz that it could not guarantee a successful search for counsel. A month later, the court ordered Ruiz to proceed pro se, explaining that it had contacted eleven attorneys and law firms and was unable to find an attorney to represent Ruiz. The court highlighted the scarcity of volunteers in the district and concluded that it had "reached its limit" of options. The court also stated that, based on the pleadings, it was confident that Ruiz could litigate the case effectively without counsel.

More than a year into discovery, Ruiz again moved for counsel, citing essentially the same impediments he had listed in the earlier motion. The district court denied the motion, reiterating that it had no authority to require anyone to represent Ruiz and that it had been unable to find a willing volunteer. The court also explained that Ruiz had shown "an above-average ability to litigate in federal court" based on his engagement in discovery and his "cogent and very well-written" filings.

Another year later, the defendants moved for summary judgment. Because Ruiz did not comply with Local Rule 7.1(D)(2)(b) in responding to the motions, the district court accepted the defendants' proposed facts as true. It then concluded that they were entitled to summary judgment. The court determined that Ruiz did not raise a genuine issue of material fact about whether he had an objectively serious condition because medical evidence showed that his shoulder was not broken or dislocated and that his range of motion was improving. Regardless, the court concluded, there was no evidence that any Wexford defendant consciously disregarded Ruiz's need for medical care. Next, the court explained that Ruiz offered no evidence that Dr. Bautista delayed medical care in retaliation for Ruiz's threat to file a grievance. And without any underlying constitutional violation, the court stated, the *Monell* claim against Wexford failed. Finally, the court determined that the State defendants could not be liable because, among other reasons, they were non-medical staff who were entitled to rely on the judgment of medical professionals. Ruiz timely appealed.

We review a summary judgment decision de novo, viewing the facts and drawing reasonable inferences in favor of the nonmoving party. *Arce v. Wexford Health Sources Inc.*, 75 F.4th 673, 678 (7th Cir. 2023). To establish a violation of the Eighth Amendment through deliberate indifference, Ruiz requires evidence that he had an objectively serious medical condition that a defendant knew of and consciously disregarded. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994). He falls short here.

First, summary judgment was appropriate for the Wexford defendants. We agree with the district court that, although Ruiz supported his claim that his shoulder pain lasted for a substantial time after he injured it, he did not furnish evidence from which a reasonable jury could conclude that the pain rose to the level of a serious medical need. *Cf. Wilson v. Wexford Health Sources, Inc.*, 932 F.3d 513, 520–21 (7th Cir. 2019) (finding serious medical need where prisoner complained of "terrible pain" and also had a hernia); *Hayes v. Snyder*, 546 F.3d 516, 523 (7th Cir. 2009) (finding serious medical need where prisoner complained of "excruciating" pain and also had growths on his testicles and extreme difficulty urinating).

Moreover, Ruiz has no answer to the evidence that Young, Vollmer, and Dr. Bautista exercised medical judgment, which is inconsistent with deliberate indifference. *See Dean v. Wexford Health Sources, Inc.*, 18 F.4th 214, 241 (7th Cir. 2021). Young provided all the care within her authority: education, ibuprofen, an order for an ice pack, and a referral to the doctor. *See Brown v. Osmundson*, 38 F.4th 545, 553 (7th Cir. 2022) (recognizing that a nurse could not provide advanced care). And when Vollmer advised Ruiz—during an appointment about a mass in his armpit—to schedule another appointment for his unrelated complaints of shoulder pain, she had assessed that his pain was a non-emergent issue, for which patients are to use the nursing sick call process. Finally, Dr. Bautista ordered an x-ray and prescribed naproxen, and Ruiz lacks evidence that the doctor did not exercise medical judgment in proceeding this way. Ruiz's displeasure with the treatment is not evidence of deliberate indifference. *See Johnson v. Dominguez*, 5 F.4th 818, 826 (7th Cir. 2021) (citing *Johnson v. Doughty*, 433 F.3d 1001, 1013 (7th Cir. 2006)).

Ruiz contends that the fact that his pain lingered for over a year proves that the defendants continued a course of treatment that they knew to be ineffective. Persisting in an ineffective course of treatment can create a jury question about a doctor's deliberate indifference. *See Petties v. Carter*, 836 F.3d 722, 729–30 (7th Cir. 2016) (en banc). But here, x-rays showed that Ruiz's shoulder was not fractured or dislocated; Dr. Bautista observed that his condition had improved after one month of treatment;

and, for over six months after his follow-up appointment, Ruiz did not complain of shoulder pain during medical appointments. Even if medical staff were consulted about Ruiz's grievances related to his lingering pain, this would not be enough to suggest deliberate indifference: Ruiz has no evidence that the defendants were personally aware of the extent of his complaints or a need for alternative treatments and still disregarded superior treatment options. *See Goodloe v. Sood*, 947 F.3d 1026, 1032 (7th Cir. 2020). And the Eighth Amendment does not require prison doctors to "keep patients completely pain-free." *Arce*, 75 F.4th at 681 (citing *Snipes v. DeTella*, 95 F.3d 586, 592 (7th Cir. 1996)).

Second, summary judgment was appropriate for the State defendants. As for Lindorff, although she is a medical professional, Ruiz seeks to hold her accountable as the administrator who advised that his grievances lacked merit. Prison officials are entitled to rely on medical professionals' judgment, and Ruiz has presented no evidence that Lindorff "should have realized that something was amiss" with the medical care he was receiving when she reviewed his medical files. *Rasho v. Elyea*, 856 F.3d 469, 479 (7th Cir. 2017). The remaining State defendants merely reviewed Ruiz's grievances and appeals and cannot be held liable under § 1983 for the conduct that formed the basis of those grievances. *See Owens v. Evans*, 878 F.3d 559, 563 (7th Cir. 2017).

Ruiz next argues that the district court erred by not recruiting counsel for him. We review for an abuse of discretion. *Pruitt v. Mote*, 503 F.3d 647, 658 (7th Cir. 2007) (en banc). No error occurred here. Although the district court initially granted Ruiz's motion for counsel (for reasons it did not explain), that decision neither created a right to counsel nor obligated the court to search indefinitely for a volunteer. *See Wilborn v. Ealey*, 881 F.3d 998, 1008 (7th Cir. 2018). Here, the docket reflects robust efforts to find a willing volunteer, but we have often recognized that, in this area, demand far outstrips supply. *See McCaa v. Hamilton*, 959 F.3d 842, 845 (7th Cir. 2020). The court reasonably decided that it had "reached its limit" in its search. *See Wilborn*, 881 F.3d at 1008.

Further, the district court reasonably concluded counsel was not necessary because the quality of Ruiz's pleadings suggested that he would be able to litigate the case himself. *See Pruitt*, 503 F.3d at 654–55. And, when Ruiz renewed his motion for counsel a year later, the court explained that Ruiz had "demonstrated an above-average ability to litigate in federal court," citing his engagement in discovery and his "cogent and very well-written" filings. Indeed, the record reflects Ruiz's competence in filing motions, requesting and responding to discovery, and working with legal authority.

Finally, Ruiz does not challenge the judgment for Wexford on his *Monell* claim or for Dr. Bautista on his retaliation claim. Any arguments on those claims are waived. *See Tuduj v. Newbold*, 958 F.3d 576, 579 (7th Cir. 2020).

AFFIRMED