NONPRECEDENTIAL DISPOSITION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 May 16, 2022*
Decided May 16, 2022

Before

MICHAEL S. KANNE, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 19-2951

GILBERTO GONZALEZ,
Plaintiff-Appellant,

v.

WEXFORD HEALTH SOURCES, INC., et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Southern District of Illinois.

No. 17-cv-287-NJR-GCS

Nancy J. Rosenstengel,
Chief Judge.

O R D E R

Gilberto Gonzalez, an Illinois inmate, fractured his thumb while incarcerated at Menard Correctional Center and received treatment beginning the next day. Gonzalez sued Wexford Health Sources, Inc., and prison employees, raising two Eighth Amendment claims. He contends, first, that the care for his thumb and, second, that the conditions in his cell amounted to cruel and unusual punishment. The district court

* 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).

entered summary judgment for the defendants. It correctly ruled that Gonzalez did not supply evidence suggesting that any defendant provided inadequate care or created unconstitutional conditions of confinement. Thus, we affirm.

We recount the facts and draw all reasonable inferences in Gonzalez's favor. *Logan v. City of Chicago*, 4 F.4th 529, 533 n.1 (7th Cir. 2021). One morning, Gonzalez jammed his thumb playing basketball in the prison yard. His thumb began to hurt, swell, and turn purple. Believing his thumb to be broken, Gonzalez asked an unidentified officer for permission to see medical staff. The officer told him to wait until he was returned to his cell. An hour and half later, Gonzalez showed his swollen thumb to the lieutenant who led the inmates back to their cells; the lieutenant, also unidentified, referred him to another unnamed officer, who told him to wait. That night, Gonzalez asked an unnamed nurse distributing medicine nearby to examine his thumb, which had swelled more. The nurse refused, explaining that the medical unit was short-staffed and busy tending to inmates recently transferred to Menard.

The next morning, Gonzalez began receiving care for his thumb. A nurse prescribed ibuprofen and arranged for an x-ray that day. Staff sent the x-ray to an outside radiologist, who assessed that Gonzalez's thumb was slightly fractured and ordered a follow-up x-ray. Gonzalez also saw a nurse practitioner who placed Gonzalez's thumb in a splint. One week later, Gonzalez returned to the medical unit for a follow-up visit. He complained of pain, and the nurse prescribed acetaminophen and a higher dose of ibuprofen. The next week, a nurse practitioner examined Gonzalez's thumb, ensured that the splint was in place, and scheduled another follow-up visit.

Gonzalez's care continued until his thumb healed. Three weeks after the injury, a radiologist reviewed his follow-up x-ray and found it "suggestive of some healing." Gonzalez had two more follow-up visits at which the nurse practitioner observed no pain or bruising. An x-ray taken two months after the injury showed "minimal evidence of healing" but normal bone alignment of his thumb. The radiologist recommended another follow-up visit. Within a month, Gonzalez's thumb had fully healed.

In this same time frame, Gonzalez raised concerns about the conditions in his cell, which he alleged contributed to medical ailments such as headaches and high blood pressure. He was moved three times to different cells to avoid clogged toilets that could not be readily fixed and sinks that had to be "snaked" to eliminate odor. He received cleaning supplies weekly, and a toothbrush, soap, and roll of tissue monthly.

Gonzalez sued the Illinois Department of Corrections, Wexford, and prison officials and employees (some unidentified) for violating his Eighth Amendment rights. *See* 42 U.S.C. § 1983. For his first claim, he faulted the unnamed defendants who denied him care on the day of his injury, accused prison administrators and Wexford of deliberately understaffing medical units to prevent adequate care, and contended that he should have received a cast, an MRI, and a specialist for his thumb. For his second claim, Gonzalez alleged that Menard has plumbing, pest infestation, and overcrowding problems. The district court gave Gonzalez five months to identify the unnamed defendants and move to "substitute specific defendants for the John Does."

Later, the district court granted the defendants' motions for summary judgment. It dismissed the unnamed defendants—those responsible for the delay with Gonzalez's treatment—for failure to name them by the deadline. In addition, it ruled that Gonzalez did not provide evidence that the defendants had a policy of understaffing the medical unit. Further, the court reasoned, no evidence suggested that the care that Gonzalez received reflected deliberate indifference. Finally, the court ruled that Gonzalez did not substantiate his allegations about unconstitutional conditions in his cell at Menard.

On appeal, Gonzalez contends that his one-day delay in treatment showed that the defendants were deliberately indifferent to his pain after he fractured his thumb. But Gonzalez never named the individual defendants responsible for that brief delay. The district court warned him that he needed to identify them and gave him ample time to discover their names. Further, Gonzalez never offered to the district court or this court a reason for his failure to comply with the court's deadline. Thus, the district court acted well within its discretion to dismiss the unidentified defendants for failure to prosecute. FED. R. CIV. P. 41(b); *see James v. McDonald's Corp.*, 417 F.3d 672, 681 (7th Cir. 2005). The claim against Wexford for the delay—based on its alleged policy of understaffing Menard's medical unit—also fails because Gonzalez provided no evidence of such a policy.

Gonzalez next contends that he presented evidence that the care he received beginning the day after his injury was constitutionally inadequate. To get past summary judgment, Gonzalez needed to supply evidence that the defendants deliberately ignored a serious medical condition. *See Petties v. Carter*, 836 F.3d 722, 728–31 (7th Cir. 2016) (en banc). He did not. It is undisputed that, from the morning after his injury, medical professionals treated Gonzalez regularly until his thumb healed. They placed his thumb in a splint the day after his injury and reassessed the splint afterward. They also responded to his complaints of pain by adjusting his medications to relieve his

discomfort. Finally, to monitor the progress of his healing, he received x-rays, which an outside radiologist reviewed, until his thumb had fully healed. Gonzalez replies that he should have received different treatment: an MRI, a cast, and a referral to a specialist. But he has not offered any evidence suggesting that the care he received was so paltry that "no minimally competent professional would have so responded under those circumstances." *Walker v. Wexford Health Sources, Inc.*, 940 F.3d 954, 965 (7th Cir. 2019).

Finally, the district court rightly entered summary judgment on Gonzalez's conditions-of-confinement claim. Gonzalez has not submitted evidence that would permit a reasonable factfinder to conclude that the conditions in his cell caused his headaches and high blood pressure. *See Gray v. Hardy*, 826 F.3d 1000, 1006 (7th Cir. 2016). Moreover, the conditions that he described in his declaration and deposition testimony—clogged plumbing and pest infestation in his cells—do not create a triable claim. It is undisputed that after prison officials learned of these problems, they moved Gonzalez to working cells and provided him with cleaning supplies and hygiene products. That reasonable response complies with the Eighth Amendment. *Townsend v. Cooper*, 759 F.3d 678, 687 (7th Cir. 2014).

AFFIRMED