NONPRECEDENTIAL DISPOSITION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 July 24, 2023*
Decided July 25, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-2819

CHRISTOPHER D. SMITH,
Plaintiff-Appellant,

v.

JODY LAMB, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Eastern District of Wisconsin.

No. 21-CV-1295-JPS

J. P. Stadtmueller,
Judge.

O R D E R

Christopher Smith, a Wisconsin prisoner who fell while working in a prison kitchen and injured his back, sued prison staff members for deliberate indifference to

* 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).

his medical needs. *See* 42 U.S.C. § 1983. The district court entered summary judgment for the defendants. He appeals that decision, and we affirm.

Smith, who is stationed at Fox Lake Correctional Institution, stumbled and injured his lower back while cleaning in the prison kitchen. He maintains that he promptly told kitchen staff about the incident. At the time, however, he did not ask to be seen in the health services unit. (He testified later that he was under the impression that prison staff should have filed an incident report and sent him to the health services unit.) He completed his shift as usual, then walked to his housing unit and took an anti-inflammatory drug. The next day, he told kitchen staff that he could work a light shift, and they allowed him to do so while advising him to submit a health-services request. He did, but only three days after his fall, when his ache turned into sharp pain. A nurse saw him two days later. Meanwhile, he continued to report for work.

After amending his complaint, Smith asked that counsel be recruited on his behalf. He explained that he had been unsuccessful trying to secure a lawyer, and he believed that the difficulty of his case exceeded his ability to litigate it.

The defendants moved then for summary judgment, arguing that Smith, by his own admission and actions, did not initially suffer from a serious medical need. When deposed, Smith recounted feeling that the pain after his fall was "probably nothing," and he was able to complete his shift, walk to and from his housing unit, and return to work in the following days. Smith also failed, defendants argued, to follow the standard process of submitting a health-services request. The defendants added that, in the aftermath of a workplace injury, no policy at Fox Lake requires non-medical prison officials, like kitchen staff, to complete an incident report or send an inmate to the health-services unit.

The district court granted the defendants' motion for summary judgment. The court explained that no reasonable jury could find that Smith suffered from an objectively serious medical condition at the time of the injury or during the next few days. And even if he experienced a serious injury, added the court, he was treated within a week and produced no evidence that would convince a reasonable jury that the defendants acted with deliberate indifference by unnecessarily prolonging his pain. The court also denied Smith's request for recruitment of counsel, remarking that Smith was able to articulate his arguments clearly and properly oppose the summary judgment motion, and, in any event, the undisputed evidence did not support his claims.

On appeal, Smith challenges the summary judgment ruling on his deliberate indifference claims. Smith mainly asserts that whether he alerted the defendants to his injury the day he fell is a material, disputed fact. But even if we assume, as did the district court, that he told the defendants about his pain that day, no reasonable jury could conclude on this record that the defendants were deliberately indifferent to an excessive risk to Smith's health. *See Farmer v. Brennan*, 511 U.S. 825, 847 (1994); *Whiting v. Wexford Health Sources, Inc.*, 839 F.3d 658, 662 (7th Cir. 2016). Smith produced no evidence that they knew that he faced a substantial risk of serious harm. *See Palmer v. Franz*, 928 F.3d 560, 563–64 (7th Cir. 2019). (To the contrary, the record reflects that Smith himself believed that his fall did not seriously harm him at the time and, indeed, he completed his shift the day of the incident and continued to report to work in the days that followed.) And even if the defendants did know of a substantial risk, they did not disregard it: They allowed Smith to work a light shift and reminded him that if he wished, he could submit a health services request as per protocol.

Smith also contends that the court abused its discretion by not recruiting counsel to represent him. But the court applied the correct standard, which we articulated in *Pruitt v. Mote*, 503 F.3d 647 (7th Cir. 2007) (en banc), and properly exercised its discretion. *See also Watts v. Kidman*, 42 F.4th 755, 760 (7th Cir. 2022). Relatedly, Smith suggests that the court should have ruled on his request for recruitment of counsel apart from ruling on the summary judgment motion. But the cases he relies on, *see, e.g.*, *Tucker v. Randall*, 948 F.2d 388, 390 (7th Cir. 1991), merely express concern over courts adjudicating a case without ruling on a motion for recruitment of counsel; here, by contrast, the court adequately justified its decision to deny the motion.

AFFIRMED