NONPRECEDENTIAL DISPOSITION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 12, 2023*
Decided May 15, 2023

Before

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2918

JACK WILLIAMS,
Plaintiff-Appellant,

v.

TORRIA M. VAN BUREN,
Defendant-Appellee.

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

No. 18-C-1663

Lynn Adelman,
Judge.

O R D E R

Jack Williams, a prisoner at Wisconsin's Waupun Correctional Institution, sued a prison psychologist under 42 U.S.C. § 1983, alleging that she violated his Eighth Amendment rights when she failed to place him under clinical observation before he cut himself with a razor blade. The district court entered summary judgment for the

* 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).

psychologist, concluding that she did not deliberately disregard an imminent risk of harm. We affirm.

We recount the facts in the light most favorable to Williams, noting disputes when relevant. *Petties v. Carter*, 836 F.3d 722, 727 (7th Cir. 2016) (en banc). On the morning of March 30, 2017, after Williams stated he was suicidal and requested clinical observation, correctional officers called the prison psychologist, Dr. Torria Van Buren, and placed him in a holding cell. Van Buren reviewed Williams's psychological services record before arriving at his housing unit. In that review, Williams asserts that Van Buren should have seen that he had been placed on suicide watch at the Milwaukee County Jail in 1993, but Van Buren testified that the county jail records were not in his psychological services file, and she noted no prior incidents of self-harm or suicidal ideation.

Williams and Van Buren present different accounts of what happened after Van Buren arrived at his housing unit. Williams asserts that Van Buren spoke with the unit sergeant for 15 to 20 minutes, during which time he heard her "laughing and joking around." Williams yelled to her that he was suicidal and that she should be talking to him, not the sergeant. But, he says, Van Buren left without speaking to him, and she told the officers he could return to his cell. According to Van Buren, however, she spoke to the sergeant for only five minutes to get information about Williams and what led to his placement in the holding cell. The sergeant told her that Williams became upset when he was ordered to stop hanging objects on his bunk. Van Buren attests that she then attempted to ask Williams about his mood and thoughts of self-harm, but Williams did not answer and was too agitated for a conversation. An officer who witnessed the interaction stated that it did not appear that Williams refused to talk.

After Williams was returned to his own cell, he again voiced suicidal thoughts before cutting his upper arm twice with a razor blade and holding the razor to his throat. When he did not drop the razor as ordered, correctional officers entered the cell and deployed an electroshock weapon on him. They then removed him from the cell. The nurse who treated Williams noted that the cuts were "sizable" but did not require stitches. Van Buren then placed Williams under observation.

Williams sued Van Buren, alleging that she was deliberately indifferent to his mental health need, in violation of the Eighth Amendment. *See* 42 U.S.C. § 1983. After Williams filed a motion for summary judgment, the district court determined that genuine issues of material fact existed; it denied his motion but granted a prior request to recruit counsel. During discovery, Van Buren testified that when she arrived at the

holding cell, she determined in her professional judgment that Williams was not at imminent risk of self-harm and did not need to be put on observational status. To support her conclusion, she explained that Williams had no history of self-harm, did not voice "any imminent intention, plan, or manner" to hurt himself and "did not appear to be depressed." She stated that she did not continue questioning Williams because in his state, he appeared to be a threat to her or others, and she decided it would be best to remove herself because her presence appeared to be agitating him. At the time, the prison had a policy stating that "staff shall place inmates who are at risk of harming themselves or … at risk of harming others … on clinical observation status."

Eventually, Van Buren filed a motion for summary judgment, arguing that Williams could not establish that he had an objectively serious medical need because his suicidal intent was insincere, and his cuts were minor. She further argued that she was not deliberately indifferent in her response to whatever risk existed. The court granted her motion. The court concluded that, even assuming that Williams's self-harm was a sufficient injury for a constitutional claim, a reasonable jury could not find that Van Buren acted with deliberate indifference. It determined that Van Buren relied on her professional judgment, and the evidence did not allow the inference that she subjectively knew that Williams was at risk of imminent harm.

We review de novo the district court's summary judgment ruling. *Petties*, 836 F.3d at 727. To prevail on an Eighth Amendment claim, the plaintiff must show that he experienced an objectively serious medical condition resulting in an injury and that the defendant subjectively knew of and disregarded a risk of harm. *Id.* at 727–28. Genuine suicidal ideation is an objectively serious medical condition, *Lisle v. Welborn*, 933 F.3d 705, 716 (7th Cir. 2019), and prison officials cannot ignore or fail to treat a prisoner who is genuinely suicidal, *Lord v. Beahm*, 952 F.3d 902, 904 (7th Cir. 2020). Like the district court, we will assume in Williams's favor that he was genuinely suicidal. (On appeal Van Buren does not press her argument that he was not.)

Williams argues that Van Buren was subjectively aware that he was at risk of self-harm because he yelled to her that he was suicidal, and because he believes she would have seen his 1993 suicide-watch placement in his psychological record. He also contends that her failure to place him under observation, when a policy existed instructing her to do so, demonstrates deliberate indifference. Van Buren maintains that she cannot be liable because, based on her professional judgment, she subjectively believed that Williams was not in imminent danger of harming himself.

We agree with the district court that a reasonable jury could not find that Van Buren was deliberately indifferent to Williams's medical needs. To be liable, Van Buren must have been subjectively aware of a likely, imminent risk of self-harm, *Pittman ex rel. Hamilton v. Cnty of Madison*, 746 F.3d 766, 779 (7th Cir. 2014), and denied or delayed mental health treatment when "'no minimally competent professional' would have done so." *See Knight v. Grossman*, 942 F.3d 336, 341 (7th Cir. 2019) (quoting *Wilson v. Wexford Health Sources, Inc.*, 932 F.3d 513, 519 (7th Cir. 2019)). According to the evidence, viewed in Williams's favor, before Van Buren declined to put Williams under observation, she reviewed his case file (which contained no recent record of threatened or actual self-harm), observed Williams for up to 20 minutes while she spoke to the sergeant, and heard Williams express frustration and a threat of self-harm.

We cannot say that these facts establish Van Buren's subjective belief that Williams was an imminent risk to himself. Van Buren attested that she used her professional judgment to assess whether it was necessary to put Williams on observational status, and we defer to professional judgment on such matters. *Id.* Even if her determination that Williams was not at risk of self-harm was incorrect or negligent, negligence and even gross negligence do not support the subjective component of an Eighth Amendment claim. *See Quinn v. Wexford Health Sources, Inc.*, 8 F.4th 557, 566 (7th Cir. 2021); *Farmer v. Brennan*, 511 U.S. 825, 835 (1994). Being wrong is not inconsistent with exercising professional judgment. *Minix v. Canarecci*, 597 F.3d 824, 833 (7th Cir. 2010) (error in releasing inmate from suicide watch not deliberate indifference). Nor was she required to evaluate him in a specific way before concluding he was not at imminent risk of self-harm. *See id.* at 831–32 (claiming inadequate mental health assessment or desiring more probing questions does not show deliberate indifference).

Indeed, Williams does not argue that Van Buren's actions were a substantial departure from professional standards. *See Petties*, 836 F.3d at 729. Instead, he insists that her subjective knowledge of his imminent risk of self-harm was demonstrated by his statements and his file, and that her departure from prison policy establishes liability. But Van Buren did not have to take Williams's statements at face value if they conflicted with her medical judgment. *See Lord*, 952 F.3d at 904–05 (distinguishing "an inmate's insincere suicide threat"). And if Van Buren did not see a past suicide-watch placement, it could not have put her on notice of a risk—assuming a decades-old incident could be relevant to the imminence of the risk. Williams had to do more than show that Van Buren "'*should have been* aware' of the risk" of self-harm from his own statements or his old record. *See Quinn*, 8 F.4th at 566 (quoting *Collins v. Seeman*, 462 F.3d 757, 761 (7th Cir. 2006)). Finally, even if Van Buren did not faithfully apply a

prison policy and place Williams under observation based on her admitted belief that it was not safe for others to enter the holding cell with Williams, prison policies do not set the standard under the Eighth Amendment. *See Estate of Simpson v. Gorbett*, 863 F.3d 740, 746 (7th Cir. 2017).

AFFIRMED