

United States Court of Appeals
For the Eighth Circuit

No. 16-3009

Sylvester Barbee

Plaintiff - Appellant

v.

Cheri Ellis, US Department of Agriculture Inspector, Egg Processor, Cummins Unit; Aundrea Weekly, Safety and Sanitation Officer, Cummins Unit; Troy Moore, Dr., Physician of CMS, Cummins Unit; Marie Austin, Health Service Administrator of CMS, Cummins Unit; Jason Boyd, Poultry/Swine Company Inspector of Egg Process Room, Cummins Unit; John Doe, Hen House Sanitation Inspector 2012, Cummins Unit; Angelika Smarjesse, Food Preparation and Service Manager, Cummins Unit (originally named as Angelika Smarjessi)

Defendants - Appellees

Appeal from United States District Court
for the Eastern District of Arkansas - Pine Bluff

Submitted: July 25, 2017
Filed: July 28, 2017
[Unpublished]

Before GRUENDER, BOWMAN, and SHEPHERD, Circuit Judges.

PER CURIAM.

Sylvester Barbee appeals from the order of the District Court¹ granting summary judgment to defendants Cheri Ellis and Audrea Weekly in Barbee's 42 U.S.C. § 1983 action arising from conditions of his confinement while he was held at the Cummins Unit.² We agree with the district court that even assuming Barbee was incarcerated under conditions that amounted to a substantial risk of harm, he has shown no jury issue whether these defendants were deliberately indifferent to that risk. See Kulkay v. Roy, 847 F.3d 637, 643 (8th Cir. 2017) (noting that an official is deliberately indifferent if she fails to respond reasonably to a known substantial risk); see also Cullor v. Baldwin, 830 F.3d 830, 836 (8th Cir. 2016) (reviewing an order granting summary judgment de novo). We affirm the judgment.

¹The Honorable J. Leon Holmes, United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable Jerry W. Cavaneau, United States Magistrate Judge for the Eastern District of Arkansas.

²Barbee has waived his remaining claims by failing to brief them. See Dick v. Dickinson State Univ., 826 F.3d 1054, 1058 n.2 (8th Cir. 2016).