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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

12 **JOAQUIN GUERRA,**

13 **Plaintiff,**

14 **v.**

15 **DEPUTY CHRIS SWEENEY, DEPUTY**
16 **FEELY, UNKNOWN NURSE, JANE**
17 **DOE #1, BEING SUED INDIVIDUALLY,**

18 **Defendants.**

CASE NO. 1:13-cv-01077-AWI BAM (PC)

ORDER GRANTING DEFENDANTS’
MOTIONS FOR SUMMARY
JUDGMENT

(Docs. 45, 53)

19 **I. Introduction**

20 Plaintiff Joaquin Guerra is a state prisoner proceeding pro se and in forma pauperis in this
21 civil rights action filed pursuant to 42 U.S.C. § 1983. The incident giving rise to this action took
22 place in the Kern County Jail while Plaintiff awaited trial. The Magistrate Judge screened
23 Plaintiff’s first amended complaint and found cognizable claims for deliberate indifference to
24 serious medical needs in violation of the Fourteenth Amendment against Defendant Kern County
25 Sheriff Deputies Sweeney and Feely in their individual capacities. Doc. 16 at 1.

26 Defendants now move for summary judgment, contending that their conduct did not
27 evidence deliberate indifference to Plaintiff’s serious medical need. Plaintiff filed an opposition.
28 Defendants filed a reply. For the following reasons, Defendants’ motion will be granted.

1 **II. Background**

2 On May 28, 2012, Joaquin Guerra was arrested by Deputy Gregory outside of a Food
3 Maxx. Deputy Gregory transferred custody of Plaintiff to Deputy Sweeney. Deputy Sweeney
4 then transported Plaintiff to the Kern County Jail. During the transportation to the Kern County
5 Jail, Plaintiff told Deputy Sweeney that he had a medical issue, possibly an infection, with his
6 eye. Plaintiff requested medical care for that condition. Deputy Sweeney responded that Plaintiff
7 would have an opportunity to see a nurse at the jail. Deputy Sweeney transferred custody of
8 Plaintiff to the booking officer, Deputy Feely. Deputy Sweeney had no further contact with
9 Plaintiff.

10 Plaintiff repeated the same medical concern regarding his eye to Deputy Feely. Plaintiff
11 indicated that his eye hurt and was very irritated. Deputy Feely indicated that he would ask the
12 nurse to see Plaintiff after he was booked. At some point thereafter, Deputy Feely actually asked
13 a nurse, in Plaintiff’s presence, to see Plaintiff. Plaintiff contends that the nurse indicated that she
14 did not want to see him. Plaintiff did not receive medical treatment on May 28, 2012. Plaintiff
15 did not further address the issue with Deputy Feely.

16 On May 28, 2012, Plaintiff’s eye was red and irritated. Plaintiff indicates that he was
17 drifting “in and out of consciousness” as a result of the pain from his eye. The pain was so severe
18 that he was unable to eat. On May 31, 2012, while Plaintiff was detained in the Kern County Jail,
19 another inmate reported to deputies that Plaintiff had a swollen right eye. According to Plaintiff,
20 sheriff deputies placed him in solitary confinement and provided no medical care.

21 Ultimately, Plaintiff lost sight in his right eye and is now also visually impaired in his left
22 eye.

23 **III. Legal Standard**

24 “A party may move for summary judgment, identifying each claim or defense – or the
25 part of each claim or defense – on which summary judgment is sought. The court shall grant
26 summary judgment if the movant shows that there is no genuine dispute as to any material fact
27 and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The moving
28 party bears the initial burden of “informing the district court of the basis for its motion, and

1 identifying those portions of ‘the pleadings, depositions, answers to interrogatories, and
2 admissions on file, together with the affidavits, if any,’ which it believes demonstrate the
3 absence of a genuine issue of material fact.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986);
4 see Fed. R. Civ. P. 56(c)(1)(A).

5 “Where the non-moving party bears the burden of proof at trial, the moving party need
6 only prove that there is an absence of evidence to support the non-moving party’s case.” *In re*
7 *Oracle Corp. Securities Litigation*, 627 F.3d 376, 387 (9th Cir. 2010) (citing *Celotex*, 477 U.S. at
8 p. 325). If the moving party meets its initial burden, the burden shifts to the non-moving party to
9 must set forth “specific facts showing that there is a genuine issue for trial.” *Anderson v. Liberty*
10 *Lobby, Inc.*, 477 U.S. 242, 248 (1986); see *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio*
11 *Corp.*, 475 U.S. 574, 585-86 (1986). To overcome summary judgment, the opposing party must
12 demonstrate a factual dispute that is both material, i.e., it affects the outcome of the claim under
13 the governing law, see *Anderson*, 477 U.S. at 248; *T.W. Elec. Serv., Inc. v. Pac. Elec.*
14 *Contractors Ass'n*, 809 F.2d 626, 630 (9th Cir. 1987), and genuine, i.e., the evidence is such that
15 a reasonable jury could return a verdict for the nonmoving party. See *Wool v. Tandem*
16 *Computers, Inc.*, 818 F.2d 1433, 1436 (9th Cir. 1987). In order to demonstrate a genuine issue,
17 the opposing party “must do more than simply show that there is some metaphysical doubt as to
18 the material facts.... Where the record taken as a whole could not lead a rational trier of fact to
19 find for the nonmoving party, there is no ‘genuine issue for trial.’” *Matsushita*, 475 U.S. at p.
20 587 (citation omitted).

21 In resolving a summary judgment motion, the court examines the pleadings, depositions,
22 answers to interrogatories, and admissions on file, together with the affidavits, if any. Fed. R.
23 Civ. P. 56(c). The evidence of the opposing party is to be believed. See *Anderson*, 477 U.S. at
24 255. A court ruling on a motion for summary judgment must construe all facts and inferences in
25 the light most favorable to the non-moving party. See *Matsushita*, 475 U.S. at 587. Nevertheless,
26 inferences are not drawn out of the air, and it is the opposing party's obligation to produce a
27 factual predicate from which the inference may be drawn. See *Richards v. Nielsen Freight Lines*,
28 602 F.Supp. 1224, 1244–45 (E.D. Cal. 1985), aff'd, 810 F.2d 898, 902 (9th Cir. 1987).

1 **IV. Discussion**

2 **A. Denial of Medical Care Claim**

3 Plaintiff’s claim of denial of medical care arose while plaintiff was a pretrial detainee.
4 “Claims by pretrial detainees are analyzed under the Fourteenth Amendment Due Process
5 Clause.” *Frost v. Agnos*, 152 F.3d 1124, 1128 (9th Cir. 1998). Traditionally, where a pretrial
6 detainee plaintiff alleges inadequate medical care, courts in this circuit have noted that a pretrial
7 detainee’s “rights under the Fourteenth Amendment are comparable to prisoners' rights under the
8 Eighth Amendment,” so courts have applied the same deliberate indifference standard. *Frost*,
9 152 F.3d at 1128; *accord Clouthier v. City of Contra Costa*, 591 F.3d 1232, 1242 (9th Cir.
10 2012); *Lolli v. County of Orange*, 351 F.3d 410, 418 (9th Cir. 2003). That said, those courts have
11 also recognized that “the Eighth Amendment ... provide[s] ‘a minimum standard of care’ for
12 determining the rights of pretrial detainees.” *E.g., Clouthier*, 591 F.3d at 1242 (quoting *Or.*
13 *Advocacy Ctr. V. Mink*, 322 F.3d 1101, 1120 (9th Cir. 2003)). The Ninth Circuit’s test for
14 deliberate indifference to a serious medical need in violation of the Eighth Amendment has two
15 component parts. *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006). First, the plaintiff must
16 show a serious medical need by demonstrating that failure to treat a prisoner's condition could
17 result in further significant injury or the unnecessary and wanton infliction of pain. Second, the
18 plaintiff must show the defendant's response to the need was deliberately indifferent. This second
19 prong...is satisfied by showing (a) a purposeful act or failure to respond to a prisoner's pain or
20 possible medical need and (b) harm caused by the indifference.” *Jett*, 439 F.3d at 1096.

21 Recently, the Ninth Circuit recognized that the Supreme Court’s decision in *Kingsley v.*
22 *Hendrickson*, --- U.S. ----, 135 S.Ct. 2466, 2472-4273 (2015) (explaining that excessive force
23 used against a pretrial detainee is governed by an objective standard), cast the traditional
24 understanding, that the Fourteenth and Eighth Amendment protections are comparable, even
25 further into doubt. *Castro v. County of Los Angeles*, --- F.3d ----, 2016 WL 4268955, *5 (9th.
26 Cir., Aug. 15, 2016); *see Mendiola-Martinez v. Arpaio*, --- F.3d ----, 2016 WL 4729476, *4 n.5
27 (9th Cir. Sept. 12, 2016). In fact, the Ninth Circuit set out a new standard, eliminating a
28 “subjective intent to punish” requirement, “in the context of a pretrial detainee’s failure-to-

1 protect claim.” *Castro*, 2016 WL 4268955 at *6-7. The *Castro* court explained that “the broad
2 wording of *Kingsley*”—referring generally to “challenged governmental action” rather than
3 specifically to force—suggests that the Supreme Court did not intend to limit its holding (that no
4 subjective intent to punish must be proven for a pretrial detainee to recover on an action under
5 the Fourteenth Amendment) to the excessive force context. As a result, the *Castro* court
6 extended *Kingsley* to the failure-to-protect context as follows:

7 [T]he elements of a pretrial detainee's Fourteenth Amendment failure-to-
8 protect claim against an individual officer are:

- 9 (1) The defendant made an intentional decision with respect to the
10 conditions under which the plaintiff was confined;
11 (2) Those conditions put the plaintiff at substantial risk of suffering
12 serious harm;
13 (3) The defendant did not take reasonable available measures to abate that
14 risk, even though a reasonable officer in the circumstances would have
15 appreciated the high degree of risk involved—making the consequences of
16 the defendant's conduct obvious; and
17 (4) By not taking such measures, the defendant caused the plaintiff's
18 injuries.

19 *Castro*, 2016 WL 4268955 at *7. It characterized that test as requiring “more than negligence but
20 less than subjective intent—something akin to reckless disregard.” *Castro*, 2016 WL 4268955 at
21 *7.

22 The *Castro* court explicitly “overrule[d] *Clouthier* to the extent that it identified a single
23 deliberate indifference standard for all § 1983 claims and to the extent that it required a plaintiff
24 to prove an individual defendant’s subjective intent to punish in the context of a pretrial
25 detainee’s failure-to-protect claim.” *Castro*, 2016 WL 4268955 at *6. The *Castro* court did not
26 specifically speak to whether the standard for § 1983 claims by pretrial detainees in medical care
27 situations require a plaintiff to prove an individual defendant’s actual awareness of the level of
28 risk. After *Castro*, most district courts in this circuit have continued to apply the Eighth
Amendment standard to pretrial detainees’ claims of injury resulting from untreated serious
medical needs, *James v. Lee*, 2016 WL 5338074, *4 (S.D. Cal. Sept. 23, 2016); *Atayde v. Napa
State Hospital*, 2016 WL 4943959, *4 (E.D. Cal. Sept. 16, 2016); *Kelley v. City of Henderson*,
2016 WL 4473420, *3 (D. Nev. Aug 24, 2016); *see also Estate of Sandra Vela v. County of*

1 *Monterey*, 2016 WL 4678300, *3 (N.D. Cal. Sept. 7, 2016) (“In the context of arrest or pretrial
2 detention, the Fourteenth Amendment confers a right to be free from cruel and unusual
3 punishment, which encompasses a right to have serious medical needs addressed.”) (citation
4 omitted), but at least one court has attempted to adapt the *Castro* standard to that context,
5 *Williams v. Grant County*, 2016 WL 4745179, *5 (D. Or. Sept. 12, 2016). While no court has set
6 out what the exact contours of what the *Castro* rule would look like in the untreated medical
7 needs context, the stripping of the Eighth Amendment deliberate indifference standard of a
8 subjective component—as *Castro* implies to be appropriate in this context—is a relatively simple
9 feat: (1) The plaintiff made a request for medical care;¹ (2) The plaintiff had a serious medical
10 need; (3) The defendant did not take reasonable steps to obtain or provide medical care, even
11 though a reasonable officer (or reasonable medical staff) in the circumstances would have
12 appreciated the high degree of risk involved—making the likelihood of harm obvious; and (4) By
13 not taking such measures, the defendant caused the plaintiff’s injuries.

14 Although the standard by which Plaintiff’s deliberate indifference to a serious medical
15 condition claim is judged is subject to dispute, even assuming that the above-listed test applies,
16 Plaintiff’s claim fails.

17 First, as to Deputy Sweeney, his conduct related to this action began when he took
18 control of Plaintiff at Food Maxx and ended when he transferred custody of Plaintiff to Deputy
19 Feely. Deposition of Joaquin Guerra (“Guerra Depo.”) at 18:12-20:20. During that time, Plaintiff
20 indicates that he asked Deputy Sweeney to see a nurse because his eye hurt and was irritated.
21 Guerra Depo. at 20:2-7. The irritation began the morning of the arrest. Guerra Depo at 15:18-20.
22 The area around Plaintiff’s eye was not visibly irritated or damaged. Guerra Depo. at 15:7-17.
23 Deputy Sweeney responded that Plaintiff would be given medical care after he was booked into
24 the jail. Guerra Depo. at 20:2-7. When Deputy Sweeney arrived with Plaintiff at the Kern County
25 Jail he transferred Plaintiff to the custody of Deputy Feely. Guerra Depo. at 20:21-21:1. Plaintiff
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27 ¹ The Court recognizes that there may be situations in which a need for medical care is so glaringly obvious that a
28 pretrial detainee need not request aid. However, because that situation is not before the Court, it is not incorporated
into this rule formulation.

1 indicates that he does not remember whether Deputy Sweeney told Deputy Feely about
2 Plaintiff's medical complaint. Guerra Depo. at 21:12-23.

3 On that record, a reasonable officer in Deputy Sweeney's position would have done
4 nothing more than Deputy Sweeney did. Deputy Sweeney conveyed to Plaintiff that medical
5 treatment was available at the jail and that it would be provided to Plaintiff after he was booked.
6 As Defendants note, Deputy Sweeney did not ignore Plaintiff's medical condition, he booked
7 Plaintiff in a location that he understood medical care to be available. Deputy Sweeney took
8 reasonable steps to obtain medical care for Plaintiff.

9 Next, Deputy Feely accepted custody of Plaintiff. Guerra Depo. at 20:21-21:1. At some
10 point thereafter, Plaintiff asked Deputy Feely for medical attention. Guerra Depo. at 21:2-11.
11 Deputy Feely sought medical attention for Plaintiff from a nurse in the booking area. Guerra
12 Depo. at 21:24-22:13. That nurse apparently refused to see Plaintiff. Guerra Depo. at 22:15-19.
13 Plaintiff had no further interactions with Deputy Feely about his eye. Guerra Depo. at 43:24-
14 44:3. Any failure to provide medical treatment to Plaintiff is not attributable to a failure by
15 Deputy Feely to take reasonable measures to obtain medical care.

16 Plaintiff's claims that Defendants failed to provide or obtain medical care in violation of
17 the Fourteenth Amendment fails. Defendants are entitled to summary judgment.

18 B. Qualified Immunity

19 The defense of qualified immunity protects "government officials ... from liability for
20 civil damages insofar as their conduct does not violate clearly established statutory or
21 constitutional rights of which a reasonable person should have known." *Harlow v. Fitzgerald*,
22 457 U.S. 800, 818 (1982). A court considering a claim of qualified immunity makes a two-
23 pronged inquiry: (1) whether the plaintiff has alleged the deprivation of an actual constitutional
24 right and (2) whether such right was clearly established at the time of the defendant's alleged
25 misconduct. *See Pearson v. Callahan*, 555 U.S. 223, 232 (2009) (quoting *Saucier v. Katz*, 535
26 U.S. 194, 201 (2001)).

27 As explained in Section IV(A) of this order, *supra*, no deprivation of a constitutional
28 right took place. As a result, Defendants are entitled to qualified immunity.

V. Order

Based on the foregoing, IT IS HEREBY ORDERED that Defendants' motions for summary judgment (Docs. 45, 53) are GRANTED.

The Clerk of the Court is respectfully directed to enter judgment in favor of Defendants and close this case.

IT IS SO ORDERED.

Dated: September 27, 2016



SENIOR DISTRICT JUDGE

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