

NONPRECEDENTIAL DISPOSITION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 February 22, 2023*

Decided March 1, 2023

Before

DIANE S. SYKES, *Chief Judge*

DAVID F. HAMILTON, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 21-1708

CHRIS NJOS,
Plaintiff-Appellant,

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

v.

No. 18-cv-598-RJD

JOHN COE, et al.,
Defendants-Appellees.

Reona J. Daly,
Magistrate Judge.

ORDER

Chris Njos, an Illinois inmate, sued his prison's health-services provider and several doctors and nurses under 42 U.S.C. § 1983 for deliberate indifference to his serious health needs. The magistrate judge 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)(C).

defendants upon determining that Njos lacked evidence that they deliberately delayed treatment or disregarded his serious health conditions. We affirm.

We recount the facts and draw all reasonable inferences in Njos's favor. *Gabb v. Wexford Health Sources, Inc.*, 945 F.3d 1027, 1030 (7th Cir. 2019). While incarcerated at Menard Correctional Center, Njos sought medical care for ear, neck, and shoulder pain and high blood pressure. Dr. Mohammed Siddiqui first examined him in mid-2017. Dr. Siddiqui found Njos's blood pressure was elevated, changed his blood pressure medication, and ordered more frequent blood-pressure monitoring. Around this time Wexford Health Sources, Inc., the prison's healthcare-services provider, appointed Dr. Siddiqui, its employee, as Menard's medical director.

Nicole Marshall, a nurse at Menard who was employed by the Illinois Department of Corrections, also treated Njos in 2017 for his pain and hypertension. On one occasion Njos complained of dizziness, a headache, blurred vision, and shortness of breath. Marshall recorded Njos's blood pressure at 170/100, then 132/100, and observed that he did not appear to be in distress. The relevant Department of Corrections policy provided that an emergency referral is proper if an inmate has a blood-pressure reading greater than 180/120 or if his blood pressure is lower but is accompanied by symptoms such as headache, blurred vision, chest pain, and dizziness. Marshall made a physician referral for Njos—but not an emergency referral. Njos saw a physician about a month later.

In June 2017 Njos fell down, possibly because of a seizure, and was taken to the healthcare unit. Dr. Siddiqui ordered seizure medication, a CT scan, and a consultation with an outside neurologist. The CT scan was completed a month later and showed normal results; Dr. Siddiqui then contacted Menard schedulers to expedite the neurology appointment. Still, delays occurred in the coordination between Menard staff and the outside specialist. Njos first saw a neurologist in August 2017. The neurologist recommended an MRI of the cervical spine, continued medication with the addition of a muscle relaxant, physical therapy, and a follow-up visit in three to four months.

By September, however, Dr. Siddiqui had not received the neurologist's report and so had not yet implemented the recommendations. That month Njos saw Dr. Siddiqui again with further complaints of pain and lightheadedness. Njos requested an MRI of his left shoulder, but Dr. Siddiqui ordered an X-ray, which detected a fracture in Njos's left clavicle. Menard staff finally received the neurologist's report about a month later. At that point staff prescribed new medication, and Dr. Siddiqui

ordered physical therapy and an MRI of Njos's cervical spine, as the neurologist had recommended.

Njos had the MRI about a month later, but it took almost another month for Menard staff to receive the MRI results and adjust Njos's treatment plan based on the findings. In further visits with Dr. Siddiqui, Njos continued to report pain. In March 2018 Dr. Siddiqui approved another neurology appointment, but it was not scheduled until May because of issues related to the transfer of medical records.

Njos sued Marshall, Dr. Siddiqui, and others under 42 U.S.C. § 1983 for deliberate indifference to his medical needs in violation of his rights under the Eighth Amendment. Njos alleged that Marshall should have entered an emergency referral in 2017 because of his high blood-pressure reading. He asserted that Dr. Siddiqui, as the director, was liable for failing to supervise those responsible for scheduling, leading to delays in his neurology appointments and new courses of treatment. Njos also complained that the treatment delays caused him worsening pain and that Dr. Siddiqui was aware that his pain medications were ineffective. He also sued Wexford as a quasi-state actor under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), asserting that Wexford's policies caused the continued delay of his medical treatment.

After the close of discovery, the Wexford and Illinois Department of Corrections defendants separately moved for summary judgment. Assisted by court-recruited counsel, Njos opposed the motions. A magistrate judge, presiding by the parties' consent under 28 U.S.C. § 636(c) and Rule 73 of the Federal Rules of Civil Procedure, entered judgment in the defendants' favor. The magistrate judge concluded that Marshall may not have followed policy but her actions did not cause Njos harm and that Dr. Siddiqui's treatment of Njos was reasonable and based on his professional judgment. Regarding Wexford, the magistrate judge concluded that Njos lacked evidence of a practice or policy of delaying treatment and that his scheduling delays were largely attributable to outside specialists.

Njos, now proceeding pro se, appeals, and we review the decision to grant summary judgment de novo, *Gabb*, 945 F.3d at 1032, limiting our discussion to the arguments developed in Njos's appellate brief.¹ For his claims to survive summary judgment, Njos needed sufficient evidence from which a reasonable jury could find that

¹ As the magistrate judge's detailed factual summary recounts, Njos interacted with, and later sued, numerous doctors and nurses at Menard and outside the prison, including Dr. John Coe. But his appeal focuses on Siddiqui, Marshall, and Wexford.

the defendants recklessly disregarded a substantial risk of serious harm to his health. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994).

Njos contends that summary judgment in Marshall's favor was inappropriate because she violated Department of Corrections policy when she did not make an emergency referral based on his hypertension symptoms during a 2017 visit. To succeed under § 1983, however, Njos must establish not only that a state actor violated his constitutional rights but also that the violation caused him harm. *Gabb*, 945 F.3d at 1032. Njos showed neither. First, a failure to follow Department policy, without more, does not demonstrate a violation of the Constitution. *See Estate of Simpson v. Gorbett*, 863 F.3d 740, 746 (7th Cir. 2017). Second, as the magistrate judge explained, Njos did not show that the nonemergency referral had any consequence. At the visit in question, Marshall took two vastly different blood- pressure readings, with the second being lower than the first. She noted that Njos was not in any apparent distress and made a standard physician referral. Njos did not present any evidence that not seeing a physician for this issue sooner made his condition worse. *See Lord v. Beahm*, 952 F.3d 902, 905 (7th Cir. 2020).

Next, Njos contends that Dr. Siddiqui's refusal to change his medication despite ongoing complaints of pain and failure to quickly follow through on the neurologist's recommendations (like the MRI and adding a muscle relaxer) unnecessarily prolonged his suffering. A prisoner may establish that medical personnel acted with deliberate indifference by demonstrating that the treatment he received was "blatantly inappropriate." *Pyles v. Fahim*, 771 F.3d 403, 409 (7th Cir. 2014). Here, Dr. Siddiqui ordered increased monitoring of and altered the medication for Njos's hypertension on several occasions. Dr. Siddiqui also waited to receive the neurologist's report before ordering further testing and prescribing the muscle relaxer. These were conscious medical judgments, and Njos does not explain why they were blatantly inappropriate or otherwise constitutionally deficient. *See id.*

Njos also asserts that as medical director, Dr. Siddiqui is liable for months-long delays in scheduling tests and appointments with specialists because he failed to supervise the relevant staff members. Dr. Siddiqui was not responsible for requesting medical records or scheduling appointments with outside providers. And under § 1983 he cannot be liable based only on his status as the supervisor of others. *Doe v. Purdue Univ.*, 928 F.3d 652, 664 (7th Cir. 2019). Officials are accountable for their own acts; they are not vicariously liable for the conduct of subordinates. *See Ashcroft v. Iqbal*, 556 U.S. 662, 667 (2009); *Vance v. Rumsfeld*, 701 F.3d 193, 203–05 (7th Cir. 2012) (en banc).

Finally, summary judgment was also appropriate for Wexford on the *Monell* claim. Njos argues that a “policy of inaction” caused the numerous delays that he contends were violations of his rights. *See Gabb*, 945 F.3d at 1035. However, he did not provide evidence of a policy or custom beyond his own experience with delayed treatment. (He offered news stories about delays in other Wexford-affiliated prisons but did not link them to his alleged injuries at Menard.) A handful of treatment delays for one prisoner is insufficient to establish an unconstitutional policy. *See Hildreth v. Butler*, 960 F.3d 420, 426–27 (7th Cir. 2020).

AFFIRMED