

NONPRECEDENTIAL DISPOSITION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 April 15, 2024*

Decided April 17, 2024

Before

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-1368

BRIAN HAYNES,
Plaintiff-Appellant,

v.

BOB BLUM, et al.,
Defendants-Appellees.

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

No. 19-cv-912-NJR

Nancy J. Rosenstengel,
Chief Judge.

ORDER

Brian Haynes, a state prisoner, sued medical professionals at the Pinckneyville Correctional Center in Illinois, asserting that they were deliberately indifferent to his

* 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).

torn Achilles tendon in violation of the Eighth Amendment. *See* 42 U.S.C. § 1983. The district court granted summary judgment for the defendants, and we affirm.

I. Background

We consider the facts in the light most favorable to Haynes, the nonmoving party. *See Stewardson v. Biggs*, 43 F.4th 732, 734 (7th Cir. 2022). On March 26, 2018, Haynes injured his ankle while playing basketball. He was immediately brought to the health-care unit in a wheelchair. Haynes told Bob Blum (a nurse practitioner) that he “heard a loud pop” in his ankle. Blum observed severe pain and swelling of the ankle. He diagnosed Haynes with a sprained ankle, ordered an x-ray, and provided an ace wrap, crutches, and pain medication. Blum directed Haynes to rest, elevate the ankle, and return to the health-care unit if pain, numbness, or skin discoloration continued. The x-ray, performed later that day, found no sign of fracture or dislocation. (An x-ray would not show signs of torn tendons or ligaments.)

In early May 2018, Haynes requested a follow-up appointment; he saw Tim Adesanya (a physician’s assistant who was filling in for Blum) a few weeks later. Haynes showed Adesanya a lump on the back of his heel and requested an MRI. Adesanya determined that the ankle sprain had healed, and no additional treatment was necessary—though he provided acetaminophen to be taken for pain as needed. Haynes says that he pressed Adesanya to order an MRI, after which Adesanya “kicked [him] out of his office” and told him he would not schedule additional testing, believing there was no medical need for it.

Still experiencing pain a few days after his appointment with Adesanya, Haynes submitted an emergency grievance to the warden asking for an MRI. The warden told Haynes his grievance was not an emergency and referred it to the normal process. The following month, a counselor denied the grievance, concluding that Haynes had received appropriate treatment for a sprained ankle and that further complaints could be dealt with by the health-care unit.

In August 2018, Haynes saw a non-party nurse for his ankle. The nurse observed severe pain, inability to put pressure on the toes, trouble walking, and a “deformity” to the ankle—the first time the medical records refer to any kind of lump. She referred Haynes to a non-party doctor, who noted a deformed Achilles tendon and ordered an ultrasound. The ultrasound showed a possible tear of the Achilles tendon, so an MRI was scheduled for November. The MRI showed a “high-grade near full-thickness” Achilles tear. Because Haynes had been walking on his ankle, surgery was the only way

to repair the tendon. In February 2019, Haynes had surgery to reattach the tendon. (He later tore it again.)

Haynes sued Blum, three named doctors, and two “John Doe” providers under 42 U.S.C. § 1983, alleging that they were deliberately indifferent to his injury, in violation of the Eighth Amendment. He also brought a claim of intentional infliction of emotional distress under Illinois law, asserting that the defendants’ failure to follow the treatment protocol for a torn Achilles resulted in severe emotional distress and mental anguish. The claims against everyone but Blum and Adesanya, who was identified as one of the Doe defendants, were dismissed early in the proceedings. The district court denied a motion for summary judgment based on failure to exhaust administrative remedies, and so the case proceeded against Blum and Adesanya.

After discovery, Blum and Adesanya moved for summary judgment, and the district court granted the motion. The court assumed, contrary to the defendants’ contention that Haynes had incurred a new ankle injury in August 2018, that Haynes had an Achilles injury as far back as his accident in March. But it concluded that Haynes did not offer evidence that any misdiagnosis of the injury before August amounted to deliberate indifference, rather than negligence at most. The court also determined that the treatment Haynes received did not fall outside “all bounds of decency” and thus did not support a claim of intentional infliction of emotional distress.

II. Analysis

Haynes appeals, arguing that he adduced sufficient evidence for both claims to withstand summary judgment. We review a summary judgment decision de novo. *See Arce v. Wexford Health Sources Inc.*, 75 F.4th 673, 678 (7th Cir. 2023).

Haynes’s deliberate indifference claim falls short because he lacked evidence that Blum or Adesanya failed to exercise medical judgment in responding to his injured ankle. To establish a violation of the Eighth Amendment through deliberate indifference, Haynes must show that he had an objectively serious medical condition that the defendants knew of and consciously disregarded. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994). Medical personnel are deliberately indifferent only if their treatment departs so substantially from accepted professional standards as to demonstrate that they did not exercise professional judgment at all. *See Brown v. Osmundson*, 38 F.4th 545, 551 (7th Cir. 2022). “Mistakes in medical judgment, even negligence, are insufficient to support deliberate indifference.” *Stockton v. Milwaukee Cnty.*, 44 F.4th 605, 616 (7th Cir. 2022).

Here, Haynes has no evidence that the failure to diagnose him with a torn Achilles tendon—assuming he had this injury in March and May 2018—resulted from anything but mistaken medical judgment. Regarding Blum’s care, Haynes contends that the “pop” he mentioned should have pointed Blum to a torn Achilles. But Blum considered Haynes’s symptoms and provided care for a sprain based on his medical judgment: medication, an x-ray, crutches, an ace wrap, and orders to rest the ankle and schedule a follow-up, if needed. Similarly, nothing in Adesanya’s notes indicates that he departed from professional judgment or deliberately ignored signs of an Achilles injury; rather, he believed based on his observation of minimal swelling that the previously diagnosed sprained ankle had healed. Haynes faults Adesanya for not ordering an MRI, but he cannot overcome the evidence that this decision was the product of Adesanya’s judgment—even if mistaken—that Haynes did not require further treatment other than pain relief as needed. *See Johnson v. Dominguez*, 5 F.4th 818, 825 (7th Cir. 2021).

Nor did Haynes adequately support his argument that the lump on his ankle and pain lasting months after the injury prove that the defendants continued an ineffective course of treatment or deliberately delayed proper treatment. Persisting in an ineffective course of treatment can create a jury question about a doctor’s deliberate indifference. *See Petties v. Carter*, 836 F.3d 722, 729–30 (7th Cir. 2016) (en banc). But a plaintiff must show that the medical provider *knew* the treatment was ineffective and persisted anyway. *Id.* at 728. Haynes has not made that showing. He saw both Blum and Adesanya for treatment only once, and he has no evidence that either was personally aware that the ankle continued to bother Haynes after these instances, or that either disregarded superior treatment options. The x-ray showed that Haynes’s ankle was not fractured or dislocated; Adesanya observed that his condition had improved after two months of treatment; and, for three months after his follow-up appointment, Haynes did not complain of ankle pain during medical appointments—with anyone.

Haynes’s evidence also comes up short on his state-law claim for intentional infliction of emotional distress. To prove intentional infliction of emotional distress under Illinois law, Haynes must show that the defendants’ conduct was extreme and outrageous, extending beyond all bounds of decency. *See Feltmeier v. Feltmeier*, 798 N.E.2d 75, 83 (Ill. 2003). We agree with the district court that, based on the evidence in the record, no reasonable factfinder could conclude that Blum’s treatment or Adesanya’s treatment was extreme and outrageous or that the treatment caused Haynes distress. *Id.* It was not beyond all bounds of decency for Blum to diagnose and provide treatment consistent with an ankle sprain or for Adesanya to decline an MRI request

based on his medical judgment. *See Diggs v. Ghosh*, 850 F.3d 905, 911 (7th Cir. 2017) (applying Illinois law).

AFFIRMED