

NONPRECEDENTIAL DISPOSITION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 10, 2024*

Decided May 13, 2024

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 23-2908

OCTAVIUS JORDAN,
Plaintiff-Appellant,

v.

SCOTT ECKSTEIN, et al.,
Defendants-Appellees.

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

No. 19-cv-1314-pp

Pamela Pepper,
Chief Judge.

ORDER

Octavius Jordan, a Wisconsin prisoner who suffers from schizophrenia, attempted to commit suicide. He then sued prison officials for deliberate indifference in failing to move him out of a large, crowded dorm in response to his “deteriorating”

* 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).

mental health condition. *See* 42 U.S.C. § 1983. The district court entered summary judgment for the defendants. We affirm.

We recount the facts, based on the record at summary judgment, in the light most favorable to Jordan, the nonmoving party. *Quinn v. Wexford Health Sources, Inc.*, 8 F.4th 557, 565 (7th Cir. 2021). In October 2017, Jordan started a new job at his prison and was required to move from a single cell to an open-concept dorm that housed roughly 117 prisoners. Three months after his move, Jordan asked to see Jennifer Harris-Forbes (a psychological associate) for “major problems” he had adjusting to life in the dorm. Harris-Forbes did not believe that Jordan’s request necessitated an immediate appointment, so she told him she would meet with him as soon as possible. About a week later, the two spoke briefly about Jordan’s struggles, and Harris-Forbes said she would discuss his housing assignment with the program manager, Stephanie Cummings. Cummings confirmed that if Jordan wanted to keep his job, he had to live in the dorm.

Shortly thereafter, in February 2018, Harris-Forbes and Jordan had a clinical session at which Jordan described his difficulties adapting to the new environment. The two discussed coping mechanisms that he could try. Harris-Forbes, who did not believe that Jordan had a clinical need to transfer out of the dorm, told him that any request to move should go to Cummings. That same day, Jordan wrote to the psychological services unit, asking for an assessment over whether he could move out of the dorm; he again was told to take the request to Cummings. A few days later, Jordan wrote to Harris-Forbes to request a referral for a single cell. Harris-Forbes took his request to the psychological services team, which determined that Jordan did not need to transfer.

In the meantime, Jordan had submitted two administrative complaints regarding his placement in the dorm. In both, he explained that his mental health condition made it difficult for him to be around a lot of people, and he complained that he should not have to give up his job to be housed elsewhere. In the second, he added that his “condition is deteriorating.” Both complaints were dismissed after complaint examiners got assurance from Cummings and Harris-Forbes that Jordan could remain in the dorm.

Jordan also wrote to several defendants (Warden Scott Eckstein, the deputy warden, and the security director), explaining that his mental health was “deteriorating” and seeking help in being moved out of the dorm. Each responded by deferring to the decisions of Harris-Forbes and Cummings about where best to house Jordan.

Then, in May 2018, Jordan attempted to hang himself. (Other prisoners intervened to prevent him from stepping off a table.) Jordan had not told anyone that he was contemplating suicide and stated in his deposition that his attempt “came out of the blue.”

Jordan brought this suit under the Eighth Amendment against a wide range of defendants (Harris-Forbes, Cummings, Warden Eckstein, the deputy warden, the security director, four officials involved in examining and dismissing his complaints, and three senior-level administrators for the Wisconsin Department of Corrections) for acting with deliberate indifference to his mental health needs. He highlighted their refusal to change his housing assignment after he alerted them to his struggles living in the dorm. The defendants later moved for summary judgment. Jordan responded by submitting five declarations—one of his own that largely mirrored his complaint, and four in which other prisoners described changes they saw in his behavior and demeanor.

The district court granted the defendants’ motion. The court reasoned that Harris-Forbes provided appropriate care to Jordan, that Cummings reasonably relied on Harris-Forbes’s determination that Jordan could remain in the dorm, and that, in any event, neither Harris-Forbes nor Cummings could be liable because each was unaware of Jordan’s plans to harm himself. The court added that the warden, deputy warden, security director, and complaint examiners were entitled to defer to the decisions of Harris-Forbes and Cummings about where Jordan should be housed and that the administrators were not personally involved in any alleged constitutional violations. We review the court’s grant of summary judgment *de novo*. *Quinn*, 8 F.4th at 565.

On appeal, Jordan primarily argues that the district court overlooked his submitted declarations, which, he says, “squarely contradict” the defendants’ version of the events. He proposes that there is a fact question over whether the defendants knew that his mental health was “deteriorating,” but that is not enough to overcome summary judgment here. Jordan needed to show that the defendants were “alerted to the likelihood” that he may seek to take his own life, *see id.* at 566 (quoting *Collins v. Seeman*, 462 F.3d 757, 761 (7th Cir. 2006)), and we agree with the district court that his evidence does not call this issue into question. Jordan testified that he never told a staff member that he was planning to commit suicide, and he admitted that his attempt “came out of the blue.” And none of the declarations he submitted says anything to the contrary.

Beyond that, as the district court rightly reasoned, the evidence does not show that Harris-Forbes or Cummings acted in a manner “approaching a total unconcern for [Jordan’s] welfare.” *Id.* at 762 (quoting *Duane v. Lane*, 959 F.2d 673, 677 (7th Cir. 1992)). Harris-Forbes responded to all of Jordan’s communications, met with him to talk through his struggles, provided him with coping strategies, and even discussed his case with her colleagues to see if they believed he needed a single cell. Jordan’s disagreement with Harris-Forbes’s opinion that he did not need to move out of the dorm cannot, on its own, establish that she acted with deliberate indifference. *See Pyles v. Fahim*, 771 F.3d 403, 409 (7th Cir. 2014). And because Cummings was entitled to rely on Harris-Forbes’s medical opinion, *see Giles v. Godinez*, 914 F.3d 1040, 1049 (7th Cir. 2019), no reasonable factfinder could conclude that Cummings acted with deliberate indifference either.

As for the remaining ten defendants, Jordan maintains that they are liable but elaborates little on why he believes the district court erred in entering summary judgment for them. We could consider these underdeveloped arguments waived, *see Williams v. DeJoy*, 88 F.4th 695, 705 (7th Cir. 2023), but, regardless, they are meritless. The warden, deputy warden, and security director cannot be held liable under § 1983 because they were entitled to defer as they did to the decisions of their staff members regarding where Jordan should be housed. *See Burks v. Raemisch*, 555 F.3d 592, 595 (7th Cir. 2009). The complaint examiners cannot be held liable because they merely reviewed Jordan’s grievances and therefore lacked personal involvement in the conduct that formed the bases of those grievances. *See Owen v. Evans*, 878 F.3d 559, 563 (7th Cir. 2017). And the administrators cannot be held liable because their only role was employing the other defendants; they were not involved in and did not know of Jordan’s situation. *See Williams v. Shah*, 927 F.3d 476, 482 (7th Cir. 2019).

AFFIRMED