NONPRECEDENTIAL DISPOSITION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 July 1, 2024*
Decided July 2, 2024

Before

DIANE S. SYKES, *Chief Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-3412

DOUGLAS E. MALLETT,
Plaintiff-Appellant,

v.

TRISHA ANDERSON, et al.,
Defendants-Appellees.

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

No. 19-cv-292-wmc

William M. Conley,
Judge.

O R D E R

Douglas Mallett, a Wisconsin prisoner, appeals the summary judgment on his claims that Trisha Anderson and Kristine DeYoung, nurses at Columbia Correctional Institution, were deliberately indifferent to his wrist injury. Because, on this record, no

* 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).

reasonable jury could find that Anderson or DeYoung violated Mallett's rights under the Eighth Amendment, we affirm.

We construe the record in favor of Mallett, the non-movant. *See Arce v. Wexford Health Sources Inc.*, 75 F.4th 673, 678 (7th Cir. 2023). While incarcerated at Columbia, Mallett injured his left wrist while playing basketball. That day—June 7, 2016—Anderson, a nurse in the Health Services Unit (HSU), received a call from a staff member who told her that Mallett was hit in the groin but refused medical treatment. (Mallet asserts that he had told this staff member that he had hurt his wrist.) Anderson recommended that Mallett submit a request to the HSU if his condition changed. Mallett submitted a request later that day, stating that he might have fractured his wrist and that he did not refuse medical attention.

On June 8, before the HSU received Mallett's request, an officer in Mallett's housing unit called the HSU to report that Mallett believed he had broken his wrist the previous day. Because the HSU had not yet received Mallett's request, the nurse on duty asked to speak with Mallett over the phone to triage his complaint. The officer told the nurse that he would call the HSU back when Mallett reported to the dayroom, but the HSU did not receive another call from the officer or Mallett. Eventually, the HSU received Mallett's request from June 7. Another nurse triaged it on the morning of June 9, scheduling Mallett to be seen by Anderson the next day.

Mallett saw Anderson for his wrist injury on June 10. According to medical records, Mallett felt a throbbing pain in his wrist after he fell and landed on it. At the appointment, Anderson noted that Mallett's injured wrist had minimal swelling and a full range of motion, although Mallett was resistant to the range-of-motion testing. Further, Mallett's wrist did not exhibit crepitus (a snap, crackle, or pop sound in the joint), bruising, or deformation. Anderson therefore recommended Mallett treat his wrist injury with PRICE (protection, rest, ice, compression, and elevation). However, Mallett did not want this treatment and expressed concern about why he was not seen earlier. Anderson told him that he was seen after he sent his request to the HSU. Unsatisfied, Mallett abruptly ended the appointment. Assessing that Mallett's injury was a likely sprain or strain, Anderson indicated in Mallett's medical chart that no follow-up was necessary, but she advised him as he was leaving to submit another request to the HSU if his wrist did not improve.

Mallett submitted another request to the HSU on June 19. (Others he sent in the meantime, on June 17, do not relate to the defendants here.) He stated that he was still experiencing extreme pain, had a lump on his left wrist, and did not have full function

of his left hand or wrist. The HSU received his request on June 21, and DeYoung scheduled Mallett to be seen by a nurse the next day. This nurse did not identify any deformities in Mallett's wrist, but at his insistence, she scheduled him to be seen by a doctor. On June 28, Mallett saw the doctor, who observed mild swelling in Mallett's wrist; he advised Mallett to take acetaminophen for 30 days and ordered an x-ray. The radiologist who interpreted the x-ray stated that there were no signs of an acute fracture or dislocation, but the doctor later noted that the x-ray seemed to show some bone chips (assuming that Mallett's interpretation of the doctor's nearly illegible writing is correct).

Mallett sued Anderson, DeYoung, and several other medical providers, guards, and grievance officials at the prison, alleging that they were deliberately indifferent to his wrist injury in violation of his rights under the Eighth Amendment. *See* 42 U.S.C. § 1983. The district court screened Mallett's complaint, *see* 28 U.S.C. § 1915A, allowing him to proceed on Eighth Amendment claims against the defendants who were involved in his medical care. Some defendants then obtained summary judgment because Mallett failed to exhaust his administrative remedies with respect to his claims against them. Later, the judge entered summary judgment on the merits for Anderson and DeYoung. Neither party disputed that Mallett's wrist injury was objectively serious, but the judge ruled that Mallett presented no evidence from which a jury could find that Anderson or DeYoung was deliberately indifferent to it.

Mallett appeals and challenges the summary judgment ruling on his claims against Anderson and DeYoung, a decision that we review de novo. *Arce*, 75 F.4th at 678. He argues that a reasonable jury could find that Anderson and DeYoung were deliberately indifferent to his wrist injury and that the judge disregarded evidence that Mallett fractured his wrist on June 7. Under the Eighth Amendment, nurses like Anderson and DeYoung may be held liable for deliberate indifference if they knew about and yet consciously disregarded a serious medical condition. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994); *White v. Woods*, 48 F.4th 853, 862 (7th Cir. 2022).

Here, no rational jury could find that the nurses' responses to Mallett's wrist injury rose to the level of deliberate indifference. Mallett primarily argues that they inexplicably delayed treatment, a circumstance that can support an inference of deliberate indifference. *See Thomas v. Martija*, 991 F.3d 763, 768 (7th Cir. 2021).

But Mallet's theory of unlawful delay in treatment rests on a premise that lacks support in the record; namely, that he fractured his wrist on June 7, and that this is confirmed by the "bone chips" visible in the x-ray taken three weeks later. All the medical evidence in the record, however, points to a wrist strain or sprain. The

radiology report revealed no fractures. And the record is completely devoid of medical explanation for the bone fragments, so there is no support for Mallet's assumption that they were caused by an acute fracture on June 7, let alone one that necessitated immediate treatment with something other than the PRICE protocol.

Even if we accepted that different treatment was called for at an earlier time, Mallett lacks evidence that either nurse was responsible for any delays. *See Walker v. Wexford Health Sources, Inc.*, 940 F.3d 954, 964 (7th Cir. 2019) (plaintiff must show that defendant's actions or inactions caused delay in treatment). First, Anderson was unaware of Mallett's wrist injury until his appointment on June 10: On June 7, she was misinformed about the nature of his injury, and another nurse processed his request to the HSU on June 9. As to Mallett's argument that Anderson was responsible for the delay between his June 10 appointment with her and his eventual doctor's appointment and x-ray, the evidence shows that Mallett declined PRICE treatment, left the appointment before Anderson finished her evaluation, and waited several days to submit another request to the HSU. None of this suggests that Anderson was responsible for delaying Mallett's receipt of treatment.

And to the extent that recommending PRICE treatment delayed Mallett's receipt of more aggressive treatment (the doctor prescribed medication), Anderson still cannot be liable unless recommending this treatment represented "so significant a departure from accepted professional standards or practices that it calls into question whether [she] was actually exercising [her] professional judgment." *Pyles v. Fahim*, 771 F.3d 403, 409 (7th Cir. 2014). Mallett insists that Anderson should have referred him to a doctor immediately, but he "is not entitled to demand specific care." *See Walker v. Wexford Health Sources, Inc.*, 940 F.3d 954, 965 (7th Cir. 2019) (quoting *Arnett v. Webster*, 658 F.3d 742, 754 (7th Cir. 2011)). Anderson exercised professional judgment by choosing among treatment options for Mallett's injured wrist, which she did not believe was fractured. *See id.*

As to DeYoung, Mallett failed to produce evidence to support his argument that she inexplicably delayed treatment for his wrist because she did not immediately prescribe him pain medication when she received his health-services request about wrist pain. He points to DeYoung's statement that her role as a nurse generally involves management of medications. But DeYoung's involvement in Mallett's medical care was minimal: She responded to his request to the HSU and scheduled his appointment with another nurse for the next day. Mallett did not produce any evidence that DeYoung had the authority to prescribe medication at all, or to otherwise intervene in Mallett's care.

See Machicote v. Roethlisberger, 969 F.3d 822, 828 (7th Cir. 2020). And instead of supporting the claim of delay, the evidence suggests that DeYoung facilitated Mallett's treatment by responding to his request and quickly scheduling his appointment.

AFFIRMED