

**NONPRECEDENTIAL DISPOSITION**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 September 20, 2024\*

Decided September 23, 2024

**Before**

FRANK H. EASTERBROOK, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-2594

EDDRELL SCOTT,  
*Plaintiff-Appellant,*

*v.*

VEDORA HINSHAW, et al.,  
*Defendants-Appellees.*

Appeal from the United States District  
Court for the Southern District of  
Indiana, Indianapolis Division.

No. 1:20-cv-02366-JRS-KMB

James R. Sweeney II,  
*Judge.*

**ORDER**

Eddrell Scott, a mentally ill Indiana prisoner assigned to Pendleton Correctional Facility's Intensive Residential Treatment (IRT) unit, sued the supervising psychologist, Dr. Christine Liedtke, and the unit manager, Vedora Hinshaw. He alleged that their deliberate indifference caused him to receive inadequate mental-health treatment, in

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\* 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).

violation of the Eighth Amendment. *See* 42 U.S.C. § 1983. The district court granted Liedtke's motion for summary judgment, determining that a reasonable jury could not find that she acted with deliberate indifference. Later, a jury found that Hinshaw was not deliberately indifferent to Scott's mental illnesses. We affirm both the summary-judgment ruling and the judgment for Hinshaw on the jury's verdict.

We begin with the summary-judgment record, recounting the facts in the light most favorable to Scott as the non-moving party. *See Quinn v. Wexford Health Sources, Inc.*, 8 F.4th 557, 565 (7th Cir. 2021). Scott was charged with armed robbery and adjudicated guilty but mentally ill in early 2020. He was sent to the IRT program at Pendleton for treatment. After assessing Scott and reviewing his mental-health history, a psychiatrist diagnosed Scott with intermittent explosive disorder, antisocial personality disorder, and substance abuse disorder. At her first encounter with Scott, Liedtke noted that Scott exhibited significant anxiety, substance dependence, and impulse-control issues without psychotic symptoms, suicidality, or mania.

From the time of his arrival, Scott was aggressive and hostile towards mental-health providers, security staff, and other patients. His behavior violated the program's rules, but Liedtke decided to give Scott time to adjust to treatment instead of removing him from the program, and she closely monitored him. Over the next five months, Scott's misconduct continued: He engaged in physical altercations with other patients, sexual misconduct, drug misuse, and threatening behavior. In June 2020, Liedtke and the treatment team decided to remove Scott from the IRT program and placed him on a transfer list because Scott was not engaging in therapy, and he presented a danger to others in the program. Liedtke had to change Scott's mental-health classification to make him eligible for transfer.

For the next six months, Scott remained in the IRT program and continued to receive mental-health treatment in accordance with a personalized treatment plan. Nevertheless, Scott submitted numerous healthcare requests, asserting that he was not receiving enough treatment. Liedtke conceded that Scott was supposed to receive 10 hours of therapy each week but—because of staffing shortages, COVID-19 quarantine conditions, and a fire in a group meeting space—Scott received an average of 6 to 7 hours of therapy each week.

Scott's classification within the IRT program meant that he spent most of his time in his cell, often around 20 hours each day and more if he was not taken to therapy sessions. Occasionally, consistent with the prison's security policy, Scott was placed in more restrictive housing because he expressed suicidal ideation or threatened others.

According to the medical records, Scott continued to receive medication and therapy when he was temporarily placed in restricted housing. And each time Scott reported suicidal ideation or self-harm, staff evaluated him, placed him on observational status, and monitored his mental state. Ultimately, Liedtke determined that Scott's suicide attempts were not genuine: his self-harm (primarily cutting) was "superficial," he never required medical treatment, and his behavior was highly controlled.

Scott was transferred from the IRT program into the general population in December 2020. Liedtke no longer treated Scott after this move, but he continued to receive mental-health treatment.

The evidence of Hinshaw's involvement with Scott's treatment comes from the trial, and so we recount the following facts in the light most favorable to the jury verdict. *Matthews v. Wis. Energy Corp.*, 642 F.3d 565, 567 (7th Cir. 2011). While Scott participated in the IRT program, Hinshaw was the Unit Team Manager. She was not a medical or mental-health professional and had no role in providing treatment or deciding which prisoners were in her unit. But she attended weekly meetings between the program's treatment teams and the patients, and she was generally aware of their progress. Hinshaw also regularly visited patients, including Scott, in their cells. During these visits, Scott often reported significant mental-health symptoms to Hinshaw and insisted that he was not receiving sufficient treatment. According to Scott, Hinshaw listened to him and expressed sympathy, but she never took action to get him more treatment. Hinshaw directed Scott's multiple written requests for treatment to the mental-health team. Scott also filed a formal grievance against Hinshaw for failing to ensure that he received the type and amount of mental-health treatment he required. Hinshaw responded that the treatment team was providing as much care as possible. Scott testified that Hinshaw could have used her role as a supervisor to ensure that security staff members were made available to escort him to therapy sessions, to refer him to a different program or transfer him to a different facility, or to otherwise remove him from what he contended was a "toxic environment." By this, Scott meant the housing placement that kept him confined to his cell and isolated. He asserts that these conditions caused significant deterioration of his mental condition.

Scott filed his § 1983 complaint in September 2020, alleging that Liedtke and Hinshaw deliberately refused to give him necessary mental-health treatment in violation of his rights under the Eighth Amendment. A centerpiece of his complaint was that they failed to comply with a 2016 settlement agreement (the "IPAS agreement") requiring certain minimal treatment for mentally ill prisoners within the Indiana

Department of Correction.<sup>†</sup> Scott later moved for summary judgment, again focusing on the defendants' supposed noncompliance with the IPAS agreement. In particular, he asserted that the agreement entitled him to 10 hours of therapy each week and to be free of isolating housing conditions but that Liedtke and Hinshaw consciously disregarded the failure of the IRT program to satisfy these requirements.

Liedtke filed a cross-motion for summary judgment. She argued that there was no evidence from which a reasonable jury could find that she provided treatment so inadequate as to violate the Constitution. In addition to explaining why the IRT program sometimes fell short of the IPAS agreement's goals, Liedtke offered the report of an expert psychiatrist who opined that Scott had received medically appropriate care.

The district court denied Scott's summary-judgment motion as to both defendants and granted Liedtke's motion. Hinshaw neither responded to Scott's motion nor filed a cross-motion for summary judgment, and so the claim against her proceeded to trial. The court recruited counsel for Scott, and after a two-day trial, the jury returned a verdict for Hinshaw. Scott did not file any post-verdict motions.

Scott appeals, first challenging the summary-judgment decision, which we review de novo, evaluating whether a reasonable jury could conclude that Liedtke was deliberately indifferent to a serious medical condition. *See Quinn*, 8 F.4th at 565. Liedtke supplied evidence that Scott's suicidal ideations and self-harm were insincere, which would negate a duty to act in response to them. *See Lord v. Beahm*, 952 F.3d 902, 905 (7th Cir. 2020). But the parties agree that Scott otherwise suffered from objectively serious mental illnesses, and so Scott had to provide evidence that Liedtke knew of and disregarded a substantial risk of harm with respect to the treatment he received. *Farmer v. Brennan*, 511 U.S. 825, 832–34 (1994).

On this record, a reasonable jury could not find that Liedtke was deliberately indifferent to Scott's mental illness. She evaluated his medical history when he arrived at Pendleton, monitored his progress in the IRT program, and responded to each incident of professed suicidal ideation or self-harm. Scott disagrees that conditions such as staffing shortages and COVID restrictions limited Liedtke's ability to ensure more treatment, but he did not submit evidence contradicting her deposition testimony. And Scott's occasional placement in restricted housing and his ultimate removal from the

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<sup>†</sup> *Indiana Protection and Advocacy Services Commission et al. v. Commissioner, Indiana Department of Correction*, No. 08 C 01317 (S.D. Ind.). The agreement expired on April 13, 2023, and the underlying case was dismissed with prejudice.

program were based on his misconduct and safety concerns—not “callous disregard” for his treatment needs. *See Rasho v. Jeffreys*, 22 F.4th 703, 710 (7th Cir. 2022). Moreover, Liedtke’s expert opined that Scott received medically appropriate care—evidence that Liedtke was not negligent, let alone deliberately indifferent. *See Farmer*, 511 U.S. at 835.

Scott continues to argue that Liedtke is liable under the Eighth Amendment because she knowingly violated the treatment standards set forth in the IPAS agreement. But failing to achieve the agreement’s goals is not a constitutional violation. *Rasho*, 22 F.4th at 711 (Illinois consent decree did not set “constitutional floor” for mental healthcare in prisons.). A lawsuit under § 1983 enforces the Constitution, not a private agreement. To directly enforce a consent decree’s provisions that a prison is allegedly violating, a prisoner must file a motion—in the case that produced the consent decree—to hold the prison in contempt. *See e.g., Holmes v. Godinez*, 991 F.3d 775 (7th Cir. 2021).

Under the Eighth Amendment, Liedtke cannot have been deliberately indifferent because she “undertook reasonable measures to achieve” the goals of the agreement, even if those measures “were ultimately unsuccessful.” *Id.* To the extent Scott argues that Liedtke should have done things differently—providing more hours of treatment or transferring him to a different facility—he merely speculates about what Liedtke could practically do or states disagreements with the course of treatment; neither line of argument is sufficient to stave off summary judgment. *See Giles v. Godinez*, 914 F.3d 1040, 1048 (7th Cir. 2019); *Johnson v. Doughty*, 433 F.3d 1001, 1013 (7th Cir. 2006).

Scott next challenges the jury verdict for Hinshaw, arguing generally that it is against the weight of the evidence. But we cannot reach this issue because Scott did not preserve his argument in a post-trial motion for judgment as a matter of law under Rule 50 of the Federal Rules of Civil Procedure. *See Dupree v. Younger*, 598 U.S. 729, 734–35 (2023); *Unitherm Food Sys., Inc. v. Swift-Eckrich, Inc.*, 546 U.S. 394, 405 (2006).

Next, Scott argues that he is entitled to a new trial because jury instructions relating to the deliberate-indifference standard and testimony about his misconduct in prison prejudiced him. But our review of the record confirms that Scott did not object to any final jury instructions. As a result, Scott did not preserve any argument about them, *see Ewing v. 1645 W. Farragut LLC*, 90 F.4th 876, 886–87 (7th Cir. 2024), and he presents no plausible argument of plain error to warrant reversal. *See* FED. R. CIV. P. 51(d)(2). In any event, Scott’s primary complaint is that the jury was instructed that the IPAS agreement did not set a floor for constitutionally adequate treatment. As we said with respect to the claim against Liedtke, this an accurate statement of the law: The Eighth

Amendment standard is not set by state law, prison policies, or the IPAS agreement. *See Rasho*, 22 F.4th at 711, 713; *Scott v. Edinburg*, 346 F.3d 752, 760 (7th Cir. 2003).

Scott also did not contemporaneously object to the testimony he now asserts was unfairly prejudicial, and so he has forfeited the argument. FED. R. EVID. 103(a)(1); *Naeem v. McKesson Drug Co.*, 444 F.3d 593, 610 (7th Cir. 2006). Although Rule 103(e) permits plain-error review of waived objections, that review is an “extraordinary measure” with “limited application” in civil cases. *See Walker v. Groot*, 867 F.3d 799, 802 (7th Cir. 2017). There are no extraordinary circumstances here that negate the waiver. Scott generally argues that testimony about his misconduct was improper because he was not the one on trial. But his behavior in the IRT program was relevant to his housing assignment and whether the challenged conditions of his confinement resulted from deliberate indifference or from valid medical or penological concerns, and Scott says nothing to suggest that any prejudice outweighed the testimony’s probative value.

Finally, Scott contends that the district court was biased because it ruled against him at summary judgment and did not allow him to participate in conversations between the court and counsel at trial. *See* 28 U.S.C. § 455(a). True, the judge rejected Scott’s summary-judgment arguments and, at trial, admonished Scott for outbursts and instructed him to communicate with the court and the jury only through his lawyers. But adverse rulings and even remarks that are “critical or disapproving of” litigants do not by themselves show bias. *United States v. Barr*, 960 F.3d 906, 920 (7th Cir. 2020) (*quoting Liteky v. United States*, 510 U.S. 540, 555 (1994)). Furthermore, our review of the transcripts reveals admirable patience from the judge, who allowed Scott to remain in the courtroom despite repeated interruptions, explained how Scott could air his concerns through his lawyers, repeatedly confirmed that Scott understood the proceedings, and verified that counsel or the court had been responsive to issues that Scott raised. Moreover, most of the judge’s dialogue with Scott took place without the jury present, mitigating any prejudice.

We have considered Scott’s remaining arguments, and none has merit.

AFFIRMED