

NONPRECEDENTIAL DISPOSITION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 December 18, 2024*

Decided December 20, 2024

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-2345

VIRGIL GRIFFIN,
Plaintiff-Appellant,

v.

DENNIS REAGLE, et al.,
Defendants-Appellees.

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

No. 1:22-cv-00308-TWP-TAB

Tanya Walton Pratt,
Chief Judge.

ORDER

Virgil Griffin, an Indiana prisoner, sued officials at Pendleton Correctional Facility, alleging that they delayed heating his cell in the early fall of 2021 in violation of his Eighth Amendment rights. *See* 42 U.S.C. § 1983. The district court granted the defendants' motion for summary judgment. It reasoned that Griffin did not show that

* 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).

the defendants created an objectively serious risk of harm to his health (and therefore they were not deliberately indifferent to his health) and that the defendants were also entitled to qualified immunity. Because no evidence shows that the defendants deliberately disregarded the conditions in Griffin's cell, we affirm.

We recount the facts in the light most favorable to Griffin, the party opposing summary judgment. *Jones v. Anderson*, 116 F.4th 669, 677 (7th Cir. 2024). Griffin was housed in restrictive housing at Pendleton's G Cell House beginning in the summer of 2021. Prison policy—enacted to respond to assaults, fires, and infractions in G Cell House—limited clothing and bedding to facilitate cell searches and prevent prisoners from hiding contraband. When Griffin entered G Cell House, he was allowed only one pair of underwear, one pair of boxers, one shirt, one pair of socks, and one blanket.

The heating system, combined with the policy restricting clothing and bedding, created problems for Griffin when the outdoor temperature fell. G Cell House was heated by a steam heater that was turned off in the summer. As the weather got colder in the fall but before the heater was turned on or the windows were closed, the temperature in G Cell House dropped. Griffin tells us that the temperature and lack of extra clothing kept him awake at night and his extremities went numb.

Griffin submitted grievances about the policy and the cold. A grievance specialist returned his first grievance, which Griffin filed on September 29, 2021, because he raised multiple issues in it, and prison policy limited prisoners to one issue per grievance. Griffin resubmitted the grievance with one issue. The specialist received it on October 26 and replied on November 9 that the prison turned the heat on and closed the windows by October 19 and, in a change to its policy, provided jumpsuits and more blankets on October 29.

Griffin's next step was this lawsuit in which he alleges that prison officials deliberately ignored the cold in his cell. Griffin limits his claim to the time after he was moved to G Cell House in mid-2021 through October 2021, when the policy changed to allow more clothing. The defendants moved for summary judgment. In their motion, they attached logs where they recorded the temperature inside G Cell House every few hours. The logs showed that the temperature fell below 60 degrees only three times: on October 18 (to 54 degrees) and on October 22 and 23 (to 59.7 degrees). In response, Griffin attached what he calls "weather" records for the area, recording the temperature every 10 minutes. They show that in September and October, the temperature was typically above 60 degrees, but occasionally dipped below 50 degrees and dropped to 39 degrees on October 17. He also asserted that the building lacked insulation.

The district court entered summary judgment for the defendants. Relying on the defendants' logs of indoor temperatures, it ruled that no evidence showed that those temperatures presented an excessive risk to Griffin's health; therefore, no reasonable jury could find that the defendants were deliberately indifferent to Griffin's well-being. The court also ruled that the defendants were entitled to qualified immunity because no case clearly established that, under the temperatures and conditions that Griffin endured, the defendants violated his Eighth Amendment rights.

On appeal, Griffin contests the entry of summary judgment. We review that decision *de novo*, *Jones*, 116 F.4th at 677, and we may affirm it on any ground that was litigated and supported by the record, *Slaney v. Int'l Amateur Athletic Fed'n*, 244 F.3d 580, 597 (7th Cir. 2001). To create a triable claim under the Eighth Amendment, Griffin must supply evidence from which a jury could find that (1) "the conditions [in his cell] were objectively so severe that he was deprived of 'the minimal civilized measure of life's necessities,'" and that (2) the defendants "had actual knowledge that he faced 'a substantial risk of serious harm and disregard[ed] that risk by failing to take reasonable measures to abate it.'" *Jones*, 116 F.4th at 679 (alteration in original) (quoting *Farmer v. Brennan*, 511 U.S. 825, 834, 847 (1994)).

Griffin first argues that the district court improperly discounted his weather logs. He does not contend that these logs measured the inside temperature, but he argues that a jury could infer from his assertion that the building lacked insulation that his weather logs imply that his cell's temperature was inhumane. We disagree. Griffin did not present qualifications permitting him to opine about the insulation of the building or how well or poorly it protected the internal environment from outside temperatures. *See* FED. R. EVID. 701; *United States v. Conn*, 297 F.3d 548, 554 (7th Cir. 2002). Thus, his lay opinion about insulation did not create a triable case about the temperature in his cell.

But, even if we assume that the temperature in his cell dipped to the levels he contends, Griffin must lose because he did not show that the defendants were deliberately indifferent to his overall well-being. Deliberate indifference "occupies a space slightly below intent and poses a high hurdle and an exacting standard requiring something approaching a total unconcern for the prisoner's welfare." *Stockton v. Milwaukee*, 44 F.4th 605, 615 (7th Cir. 2022) (quotations omitted). The undisputed evidence shows that the defendants did not ignore the welfare of prisoners in G Cell House; rather, they were almost the opposite of indifferent. To begin, during the warm summer months, they reasonably applied a policy of limited bedding and clothing to minimize the risk of fires and assaults that had become frequent. As the temperature

dropped in the fall, the defendants reasonably altered course: By the time the grievance specialist received Griffin's resubmitted grievance on October 26, they had already turned on the heat, closed the windows, and, within days of his grievance, they revised the prison's policy to allow new jumpsuits and more blankets.

Griffin offers two unavailing responses. First, he argues that, because he filed his initial grievance on September 29, the defendants knew that he was inadequately protected from the cold for all of October. But his initial grievance raised more than one issue, and the prison's grievance policy—the validity of which Griffin does not challenge—limits prisoners to one issue per grievance. Because a prison may reasonably reject noncompliant grievances, *Burks v. Raemisch*, 555 F.3d 592, 595–96 (7th Cir. 2009), the defendants did not violate Griffin's Eighth Amendment rights when they returned his grievance without addressing his complaints and asked him to submit a compliant grievance. Second, Griffin argues that because officers wore heavy clothing inside the prison in October, the defendants deliberately ignored Griffin's comparable clothing needs. We disagree. The officers' attire does not evince deliberate indifference because the defendants had to balance two opposing goals for prisoners: minimize the risk of assaults and fires, which arose from extra clothing and bedding, and minimize the risk to prisoners of cold, which arose from reduced clothing and bedding. On this record, a reasonable jury could not find that, as summer turned to fall, the defendants reconciled those opposing goals in a deliberately indifferent manner.

AFFIRMED