NONPRECEDENTIAL DISPOSITION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 February 13, 2025*
Decided February 14, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 24-2351

DA VONTE LOVE,
Plaintiff-Appellant,

v.

DANIEL LA VOIE, et al.,
Defendants-Appellees.

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

No. 23-C-1537

William C. Griesbach,
Judge.

O R D E R

Da Vonte Love, a Wisconsin prisoner whom doctors have treated for depression, carpal tunnel syndrome, and vision problems, contends that the defendants have violated his rights under the Eighth Amendment, *see* 42 U.S.C. § 1983, and under both

* 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 Americans with Disabilities Act, *see* 42 U.S.C. §§ 12132–12133, and the Rehabilitation Act, *see* 29 U.S.C. §§ 794–794a. He appeals the denial of his motion for a preliminary injunction. *See* 28 U.S.C. § 1292(a)(1). The district court denied preliminary relief because, among other reasons, Love failed to show a reasonable likelihood of success on the merits. Because the district court reasonably exercised its discretion, we affirm.

Dissatisfied with the medical care that he was receiving at Green Bay Correctional Institution, Love sued for relief. The district court screened his verified complaint, *see* 28 U.S.C. § 1915A, and allowed him to proceed on three claims. The first alleges that Dr. Daniel La Voie (the prison's medical director) and an advance-practice nurse violated his rights under the Eighth Amendment by discontinuing Love's prescription for pregabalin, a pain reliever, for his carpal tunnel syndrome. (Love had refused to complete blood tests required to assess whether he was taking the drug as prescribed because, he said, his carpal tunnel symptoms made blood tests too painful.) The second claim alleges that the Secretary of the Wisconsin Department of Corrections, in his official capacity, violated the ADA and Rehabilitation Act by refusing to allow Love to provide a urine sample, instead of a blood sample, to test for the amount of pregabalin in his system. The third claim alleges that two doctors violated his rights under the Eighth Amendment by treating him with different antidepressants for three years even though, he says, the drugs were ineffective and blurred his vision.

Love moved for a preliminary injunction. He asked the district court to order the defendants (1) to accommodate his request for urine, rather than blood, testing to assess his use of pregabalin; (2) to treat Love's depression with "brain stimulation treatment"; and (3) to house Love in a single cell in light of blurred vision from his antidepressant.

The defendants opposed the motion and submitted declarations regarding Love's medical treatment. *See* 28 U.S.C. § 1746. Dr. La Voie attested that the Department requires prisoners to submit to blood testing to monitor for misuse of drugs like pregabalin, and he discontinued Love's prescription because he refused to comply with that requirement. Dr. La Voie also attested that a urine test is not an adequate substitute for a blood test because the former shows only whether pregabalin is present, not whether its level is proper. Next, Dr. Todd Hamilton, supervisor of psychological services at the prison, attested that, based on his review of Love's records, "brain stimulation" was not appropriate for Love. He explained that Love had persistent depressive disorder, a condition for which different drug options were still available; brain stimulation, by contrast, is a treatment for severe depression, such as major depressive disorder, which Love did not have. He also stated that Love was no longer

taking the antidepressant drug that blurred his vision, and therefore a single cell was not necessary. Love did not contest these statements.

The district court denied Love's motion, concluding that Love was not likely to succeed on the merits of his claims under the Eighth Amendment, ADA, or Rehabilitation Act. It first explained that the decisions to require blood testing for pregabalin and to forgo brain-stimulation therapy were based on uncontested medical judgment; therefore, Love was unlikely to succeed on the merits of his claims under the Eighth Amendment. As for Love's claims under the ADA and Rehabilitation Act, the court ruled that urine testing was not a reasonable accommodation for blood testing because, as was undisputed, it did not allow the Department to assess whether Love was taking his medication as prescribed. And because medical records showed that Love had not recently complained about blurred vision from his current drugs, the court ruled that a single cell was not a needed accommodation. The court added that Love was unlikely to suffer irreparable harm if the court denied his request for relief.

Love challenges the denial of his motion for a preliminary injunction. We review legal conclusions de novo, factual findings for clear error, and denial of injunctive relief for an abuse of discretion. *See GEFT Outdoors, LLC v. City of Westfield*, 922 F.3d 357, 364 (7th Cir. 2019). He first challenges the conclusion that he failed to show a reasonable likelihood of success on the merits—one of the requirements for obtaining a preliminary injunction. *See Orr v. Shicker*, 953 F.3d 490, 501 (7th Cir. 2020). Because, as we are about to explain, Love cannot show *any* likelihood of success on the merits, we need not address the other prerequisites to obtain a preliminary injunction. *See GEFT Outdoors*, 922 F.3d at 364.

We begin with Love's argument that the Eighth Amendment entitled him to brain-stimulation therapy. We understand him to argue that the defendants deliberately ignored his depression because they continued to prescribe antidepressant drugs even though his depression is not resolved. To have a chance of success on this claim, Love must present evidence suggesting that the defendants persisted in treatment that they knew was ineffective or refused treatment that they knew was proper. *See, e.g.*, *Goodloe v. Sood*, 947 F.3d 1026, 1031 (7th Cir. 2020). But he did not do so. As Dr. Hamilton explained without contradiction, Love had not yet exhausted all of the options for antidepressant drugs that could alleviate his symptoms of depression. Further, Love did not contest the medical opinion that his condition of persistent depressive disorder was not severe enough to warrant brain-stimulation therapy. Finally, Love produced no evidence that the defendants knew that all drug options would be ineffective or that

drug therapy was such a substantial departure from accepted professional standards that it was not even the exercise of medical judgment. *See Brown v. Osmundson*, 38 F.4th 545, 551–52 (7th Cir. 2022). The district court thus did not abuse its discretion in denying his request for brain-stimulation therapy.

The district court also correctly ruled that Love had no chance of success on his claims, under the ADA and Rehabilitation Act, seeking a urine-test alternative to monitor his pregabalin levels and single-occupancy cell for his blurred vision. In Love's view, the court should not have credited the statements from Dr. La Voie (that a urine test could not detect pregabalin levels) and from Dr. Hamilton (that Love was no longer taking the antidepressant drug that had blurred his vision). But Love failed to offer any medical evidence to contradict Dr. La Voie's statement about urine testing. And, although Love stated in his verified complaint that his vision had once been blurry, he did not contest Dr. Hamilton's statement that, after a change in drugs, Love no longer reported blurred vision. Finally, even if the evidence had conflicted, in evaluating a motion for a preliminary injunction the court was not required to give Love the same benefit of the doubt on evidence as it would at summary judgment. *See Doe v. Univ. of S. Ind.*, 43 F.4th 784, 791–92 (7th Cir. 2022). Thus the district court reasonably denied him preliminary relief on these claims.

We have considered Love's other arguments, and none has merit.

Finally, we discuss the matter of Love's fee status on appeal. The district court granted Love in forma pauperis (IFP), relying on its earlier ruling from the onset of this case that Love had satisfied the imminent-physical-danger exception to the three-strikes rule. *See* 28 U.S.C. § 1915(g). But the district court did not consider whether—at the time Love appealed and based on the record the court had developed—Love continued to satisfy the exception. By then, as discussed above, the undisputed evidence showed that Love was not in imminent danger of serious physical injury. Thus the grant of IFP status on appeal was incorrect.

We AFFIRM the district court's order and REVOKE Love's IFP status in this appeal. Love must pay the filing and docketing fees for this appeal. *Campbell v. Clarke*, 481 F.3d 967, 970 (7th Cir. 2007); *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). The clerk of the district court shall collect the appellate fees from the prisoner's trust fund account using the mechanism of 28 U.S.C. § 1915(b).