

**NONPRECEDENTIAL DISPOSITION**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 March 28, 2025\*

Decided March 28, 2025

**Before**

FRANK H. EASTERBROOK, *Circuit Judge*

KENNETH F. RIPPLE, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 24-1618

MARK A. BYRD,  
*Plaintiff-Appellant,*

*v.*

MARLIANA MUNOZ, et al.,  
*Defendants-Appellees.*

Appeal from the United States District  
Court for the Central District of Illinois.

No. 1:21-cv-01152-SLD

Sara Darrow,  
*Chief Judge.*

**ORDER**

Mark Byrd, an Illinois prisoner, maintains that prison officials violated his rights under the Eighth Amendment when they consciously disregarded a serious risk to his health and safety by improperly wearing the masks meant to prevent the spread of COVID-19. *See* 42 U.S.C. § 1983. The district court entered summary judgment in favor of the defendants, concluding that Byrd lacked evidence that the defendants acted with

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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).

deliberate indifference to his exposure to COVID-19. Because a reasonable jury could not find that the defendants knew of and consciously disregarded Byrd's risk of contracting COVID-19, we affirm.

We recount the facts and draw inferences in the light most favorable to Byrd, the party opposing summary judgment. *See James v. Hale*, 959 F.3d 307, 314 (7th Cir. 2020). This appeal centers on events in the early months of the COVID-19 pandemic, when Byrd was incarcerated at Pontiac Correctional Center. In July 2020, the warden issued a bulletin requiring staff to wear masks inside the prison and advising that discipline would result from noncompliance. A month later, the prison imposed a lockdown to limit the spread of COVID-19. But many workers did not heed the mask requirement; they improperly wore masks and, in some instances, refused to wear masks altogether. Byrd says that he constantly implored prison staff to wear their masks properly, to no avail. (There is no evidence in the record that any staff members were disciplined for improperly wearing masks.) In September, Byrd tested positive for COVID-19.

Byrd then sued 33 prison staff members, including correctional officers, nurses, and a case work supervisor, alleging that they were deliberately indifferent to an excessive risk of serious harm, in violation of his Eighth Amendment rights. *See* 42 U.S.C. § 1983. He alleged that the defendants caused him to contract COVID-19 by improperly wearing masks and spreading the virus. The defendants moved for summary judgment, arguing that Byrd lacked evidence from which a reasonable jury could infer that the defendants knew of and consciously disregarded his risk of contracting COVID-19. The district court agreed with the defendants and entered summary judgment in their favor.

On appeal, Byrd contests the summary judgment decision. We review the district court's ruling *de novo*, meaning that we take a fresh look at the issues. *Groves v. S. Bend Cmty. Sch. Corp.*, 51 F.4th 766, 769 (7th Cir. 2022). For Byrd's claim to proceed to trial, he had to furnish evidence that the complained-of condition posed an excessive risk to his health and safety and that the defendants knew of, yet disregarded, the risk. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994); *Stockton v. Milwaukee Cnty.*, 44 F.4th 605, 614 (7th Cir. 2022). The defendants concede that contracting COVID-19 (in the pre-vaccine era) presented a serious health risk. Therefore, to get to trial, Byrd must show that the defendants individually knew of and yet disregarded this risk. *Stockton*, 44 F.4th at 615.

On that point, Byrd falls short. He argues that the district court overlooked evidence that prison staff knowingly disregarded his serious health risk: affidavits that,

he says, show that the prison staff ignored his complaints of improperly wearing masks. Byrd's evidence does not reflect a culpable state of mind by any defendant, however. Again, an official is not liable unless he disregarded an obvious risk to Byrd's health. *Stockton*, 44 F.4th at 615. This standard "mirrors the recklessness standard of the criminal law." *Brown v. LaVoie*, 90 F.4th 1206, 1212 (7th Cir. 2024). Byrd's evidence shows, at most, that some staff members were careless or negligent by improperly wearing or refusing to wear masks. Deliberate indifference, though, requires more; it poses a "high hurdle and an exacting standard approaching a total unconcern for the prisoner's welfare in the face of serious risk." *Stockton*, 44 F.4th at 615 (citation omitted). The defendants' unresponsiveness to Byrd's complaints does not demonstrate that they knew improper mask-wearing presented an excessive risk that Byrd would contract COVID-19 or had a total lack of concern for that risk. *See, e.g., Jackson v. Duckworth*, 955 F.2d 21, 22 (7th Cir. 1992) ("If the harm is remote rather than immediate, ... the subjective component is not established and the suit fails."). At most it might show their knowledge that Byrd believed they were not being sufficiently cautious.

What is more, Byrd has another problem: § 1983's requirement of a causal connection between the officer being sued and the constitutional deprivation. *See Hunter v. Mueske*, 73 F.4th 561, 567–68 (7th Cir. 2023). Here, Byrd sued a total of 33 defendants, alleging that they caused his COVID-19 infection. Yet nothing in the record identifies how Byrd contracted COVID-19; absent is the causal link between the defendants' conduct of improperly wearing masks and Byrd's COVID-19 infection. *See Whitlock v. Brueggemann*, 682 F.3d 567, 583 (7th Cir. 2012) ("Causation requires us to analyze the relation between an official's conduct and a resulting injury; when, where, and exactly how that injury occurs" is part of the causation inquiry.). The record shows that most of the defendants did not interact with Byrd in the weeks or even months before his infection. They might have contributed to the overall risk within the prison, but Byrd produced no evidence that any one of them infected him (let alone that they had done so deliberately or recklessly). The same is true for the defendants who had some contact with Byrd within his incubation period; he submitted nothing to establish that it was one of the defendants improperly wearing a mask, and not infinite other potential causes, that resulted in his infection.

AFFIRMED