NONPRECEDENTIAL DISPOSITION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 April 3, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

KENNETH F. RIPPLE, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 24-2349

ISAIAH D. JORDAN,
Plaintiff-Appellant,

v.

LYNN DOBBERT, et al.,
Defendants-Appellees.

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

No. 22-cv-692-jdp

James D. Peterson,
Chief Judge.

O R D E R

Isaiah Jordan, a Wisconsin prisoner, sued several medical providers at his prison's healthcare unit for acting with deliberate indifference to his painful foot conditions in violation of the Eighth Amendment. *See* 42 U.S.C. § 1983. The district court

* 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).

entered summary judgment for the defendants. Because no reasonable jury could find that medical staff were deliberately indifferent, we affirm.

We construe the record in favor of Jordan, the nonmoving party. *See Arce v. Wexford Health Sources Inc.*, 75 F.4th 673, 678 (7th Cir. 2023). Jordan has several painful foot conditions, including flat feet, bunions, metatarsalgia (inflammation in the ball of the foot), and hallux limitus (a joint condition). Jordan was transferred from Jackson Correctional Institution to New Lisbon Correctional Institution in June 2021. Upon his arrival at New Lisbon, to help limit the pain from these conditions, he sought a low-bunk restriction to avoid climbing ladders, and requested new rocker-bottom shoes, which have special rounded soles that help reduce the impact from walking. (Jordan arrived at New Lisbon with a pair of rocker-bottom shoes that he received at Jackson.) Jordan's care was managed by several people, including defendants Maryah Martin, Melissa McFarlane, Koreen Frisk, and Lynn Dobbert (nurse clinicians), Tammy Strumness (health services manager), and Holly Gunderson (health services nursing coordinator). Defendant Dr. Barry Daughtry was Jordan's primary care provider.

The Low-Bunk Restrictions

After arriving at New Lisbon, Jordan was temporarily assigned to a low bunk in July 2021. He requested that the prison permanently assign him to a low bunk to help manage his pain. That request required approval by the prison's Special Needs Committee, which is comprised of medical and non-medical prison employees. Nurse Martin sat on the Committee and presented a summary of Jordan's medical history. The Committee denied Jordan's request on October 14, 2021, because, in its view, he did not meet the criteria for a low-bunk restriction as outlined by New Lisbon policy—that he have "[s]ignificant functional limitations in mobility." The denial was based on observations by staff that Jordan was able to walk without issue and exercise daily.

In early November, Jordan was reassigned to an upper bunk. Shortly after, Jordan fell while climbing into the bunk. As a result, the prison's physical therapist recommended a low-bunk restriction, which Dr. Daughtry approved for six months, through May 18, 2022.

This restriction, however, was removed three months early based on Dr. Daughtry's reevaluation. Specifically, a prison guard reported in February that Jordan appeared capable of walking, working, and caring for himself without pain. He also reported inaccurately that Jordan had no fall history within the past six months. Another guard reported seeing Jordan jog without issue, though Jordan asserts that, at

most, he walked briskly. Dr. Daughtry ordered on February 14, 2022, that Jordan's low-bunk restriction be discontinued. Manager Strumness, as a clerical matter, updated the Health Services Unit's files to remove the restriction. Dr. Daughtry later explained to Jordan that his low-bunk restriction was discontinued because he did not qualify for it and there are a limited number of low bunks available.

In June 2022, Jordan again requested that he be given a permanent low-bunk restriction or, alternatively, that the rungs of his ladder be padded. He relied upon the recommendation of an outside podiatrist, Dr. Damian Hilbert, who had been treating him. When Nurse Martin called Dr. Hilbert to clarify his recommendation, Dr. Hilbert told her that Jordan could climb a ladder, and if Jordan wore shoes while doing so, that would mitigate Dr. Hilbert's concerns. At Nurse Martin's request, Nurse Dobbert told Jordan that New Lisbon would not pad his ladder rungs because Nurses Dobbert, Martin, and Frisk concluded the padding posed a safety risk. Nurse Dobbert also told Jordan that he could wear his rocker-bottom shoes while climbing the ladder and remove them in bed.

The Rocker-Bottom Shoes

When Jordan arrived at New Lisbon in June 2021, he wore a pair of rocker-bottom shoes that he received at his former prison. But because he believed that they were wearing out, he requested in late October that the medical staff order him a new pair. That request required a non-defendant nurse to coordinate with Winkley, a company that creates and modifies medical shoes.

Nurse Frisk saw Jordan on October 29, 2021, and after receiving Dr. Daughtry's approval, placed an order for Jordan to receive replacement shoes modified with rocker bottoms. That order was canceled on November 24, apparently by Dr. Daughtry and for reasons unexplained by the record, but it was placed again four days later.

Winkley received the shoes from its vendor on December 13, 2021. It sent them to New Lisbon, where Jordan received them in late December 2021 or early January 2022. Jordan refused them, however, because they lacked the additional rocker-bottom modification. Around the same time, Jordan visited Dr. Hilbert, the outside podiatrist. Dr. Hilbert recommended that Jordan use toe spacers and that he wear New Balance tennis shoes. Jordan already had toe spacers, and Nurse McFarlane sent Jordan a letter saying that he could purchase New Balance shoes through the prison's shopping catalog. Jordan did not purchase these shoes.

Shortly after visiting Dr. Hilbert, Jordan again asked Nurse Martin for new rocker-bottom shoes. Nurse Martin sent his request to the nurse responsible for coordinating the modification and, in mid-January 2022, Dr. Daughty entered another order for new shoes. In February, the nurse who coordinated with Winkley sent photos of the rocker-bottom modification on Jordan's current shoes to Winkley. Winkley shipped Jordan's shoes to New Lisbon on February 9.

Jordan rejected these shoes, too. Despite Winkley's records showing otherwise, the shoes had not been modified with extra rocker-bottom support. Nurse McFarlane stated in her appointment notes that "Winkley hasn't been overly helpful with this issue," and she reached out to the health staff at Jordan's previous prison to see if they had advice for dealing with Winkley. In the meantime, Nurse McFarlane recommended that Jordan take his new, unmodified shoes to his next appointment with Dr. Hilbert to see if he could assist Jordan.

Upset with the delay, Jordan filed a grievance with the health services unit. Nursing Coordinator Gunderson denied his grievance but otherwise had no involvement with Jordan's care.

In late April 2022, Dr. Hilbert saw Jordan and recommended that rocker bottoms be added to the shoes he received from Winkley. Jordan visited Winkley in late May 2022 for that purpose, and he ultimately received his modified shoes in early June 2022.

The Lawsuit

Jordan sued several people involved in his care, alleging that they were deliberately indifferent to his painful foot conditions when they repeatedly refused to assign him to a low bunk and failed to timely obtain rocker-bottom shoes. *See* 42 U.S.C. § 1983. The district court screened his complaint, see 28 U.S.C. § 1915A, and allowed him to proceed on claims against Dr. Daughtry, nurses Dobbert, Frisk, Martin, and McFarlane, Nursing Coordinator Gunderson, and Manager Strumness.

After discovery, the district court granted the defendants' motion for summary judgment. It concluded that the defendants had exercised their medical judgment when they denied Jordan's requests for a low-bunk restriction, had been diligent in attempting to get him modified shoes, and the delays in acquiring the modified shoes were attributable to Winkley and not the defendants.

Jordan appeals. We review the district court's decision granting summary judgment de novo. *Arce*, 75 F.4th at 678.

Analysis

To survive a motion for summary judgment, Jordan must present evidence from which a reasonable jury could conclude that prison medical staff were deliberately indifferent to his serious medical condition. *See Estelle v. Gamble*, 429 U.S. 97, 103–04 (1976); *Arce*, 75 F.4th at 679. Deliberate indifference is more than negligence or malpractice; the defendant must know of and disregard an excessive risk to the prisoner's health or safety. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994). We defer to the exercise of medical judgment unless the defendants' actions were "such a substantial departure from accepted professional judgment, practice, or standards, as to demonstrate that the person responsible actually did not base the decision on such a judgment." *Johnson v. Rimmer*, 936 F.3d 695, 707 (7th Cir. 2019) (quoting *Youngberg v. Romeo*, 457 U.S. 307, 323 (1982)). Mere disagreement between doctors about a treatment plan does not show a departure from medical judgment unless the disagreement is based on non-medical reasons. *McDaniel v. Syed*, 115 F.4th 805, 833 (7th Cir. 2024). For any delays in receiving care, Jordan must show that the defendants were responsible for the delays. *Dean v. Wexford Health Sources, Inc.*, 18 F.4th 214, 242 (7th Cir. 2021).

Jordan first argues that the district court overlooked evidence from which a jury could conclude that Nurse Martin was deliberately indifferent when she failed to secure for him a permanent low-bunk restriction. In Jordan's view, the prison's policies required his permanent assignment to a low bunk because of his painful foot conditions. Thus, Jordan speculates, Nurse Martin must have improperly summarized his medical history to the Special Needs Committee when it denied his request.

But Jordan presents no evidence to support his speculation. In her sworn declaration, Nurse Martin explained that although she did not recall what specific documents she presented to the Committee, she provided documentation about Jordan's conditions from both onsite and offsite providers. Jordan's unsupported allegation that this information was inaccurate or insufficient does not create a material dispute of fact. *See Giles v. Godinez*, 914 F.3d 1040, 1048 (7th Cir. 2019) ("[I]nferences must rely on more than mere speculation or conjecture."). Jordan suggests that Nurse Martin undermined his request by sharing a guard's observation that Jordan was able to exercise without difficulty, which was improper because the guard lacked medical expertise. But observing that someone can walk and exercise without issue does not

require expertise, and Nurse Martin's decision to share that observation does not suggest a lack of medical judgment.

Jordan next argues that a jury could conclude that Dr. Daughtry was deliberately indifferent when he terminated early Jordan's six-month low-bunk restriction in February 2022. Jordan says that this decision contradicted the recommendations from his physical therapist and podiatrist. But in the weeks after those providers rendered their opinions, new facts emerged: New Lisbon staff reported that Jordan was able to complete a range of physical activities, including walking steadily without obvious discomfort and doing weighted squats. Jordan correctly notes that one report inaccurately stated he had no fall history, but Dr. Daughtry based his decision on the reported activity levels—not the fall history. Jordan argues that the reports did not accurately reflect his activity level, but he provides no reason that Dr. Daughtry should not have believed them. And although deliberate inference can be inferred when a doctor ignores the recommendation of a specialist (like a podiatrist), it cannot be inferred where, like here, a doctor exercises his independent medical judgment and disagrees with the specialist. *See Riley v. Waterman*, 126 F.4th 1287, 1295–96 (7th Cir. 2025).

Jordan contends that Dr. Daughtry's statement that other prisoners needed a low bunk more than Jordan means Dr. Daughtry failed to exercise medical judgment. But administrative convenience is a permissible factor for a doctor to consider, so long as it does not entirely supplant medical judgment. *See Clemons v. Wexford Health Sources, Inc.*, 106 F.4th 628, 637 (7th Cir. 2024). Here, the undisputed evidence shows that Dr. Daughtry did not rely on administrative convenience alone. After Jordan had been assigned to a low bunk for three months, Dr. Daughtry reconsidered Jordan's need for the restriction based on current staff observations of Jordan's mobility and pain.

Jordan also argues that Manager Strumness was deliberately indifferent because she followed Dr. Daughtry's order and removed the low-bunk restriction from Jordan's electronic medical record. But Strumness, who had not personally evaluated Jordan, was entitled to rely on Dr. Daughtry's judgment. *See Reck v. Wexford Health Sources, Inc.*, 27 F.4th 473, 485 (7th Cir. 2022) (concluding nurses can, and generally must, "defer to a treating physician's instructions").

Jordan's final argument about his low-bunk restrictions is that Nurse Martin and Nurse Dobbert did not exercise medical judgment in June 2022 when they denied Dr. Hilbert's recommendation that Jordan be assigned to a low bunk, or alternatively, given padded rungs for the ladder. But Nurse Martin spoke to Dr. Hilbert, and Dr. Hilbert

confirmed that it would be appropriate for Jordan to climb a ladder so long as he wore shoes. Moreover, Nurses Martin, Dobbert, and Frisk concluded that padded ladder rungs could present a fall risk. Jordan's insistence that these decisions were blatantly inappropriate or based on animus rather than medical judgment is not supported by any evidence. Indeed, Jordan does not deny that he was able to climb the ladder without pain if he wore his shoes. Rather, he points out that doing so could have tracked dirt into his bed. But the defendants' disregard for this cleanliness concern does not permit an inference that they disregarded an "excessive risk of health or safety," as required for liability under the Eighth Amendment. *See Farmer*, 511 U.S. at 837; *see also Pyles v. Fahim*, 771 F.3d 403, 412 (7th Cir. 2014) (noting that inmates are not entitled to their preferred course of treatment).

Jordan's arguments about his rocker-bottom shoes fare no better. Despite Jordan's assertions to the contrary, the undisputed evidence shows that the delay in Jordan's receipt of new rocker-bottom shoes was caused by Winkley rather than by any defendant. Medical staff placed the first order for Jordan's shoes with Winkley on October 29, 2021, the same day Jordan requested them during his visit with Nurse Frisk. The order requested "what [Jordan] has received in the past." But when the shoes arrived sometime in late December or early January, they were missing the modification.

Nurse Martin immediately brought Jordan's concern to the nurse responsible for coordinating with Winkley. About a week later, that nurse obtained Dr. Daughtry's approval to place a new order. When Winkley re-sent the shoes on February 9, they still did not have the appropriate modification, so Nurse McFarlane scheduled Jordan to meet with Dr. Hilbert in April to see if he could help fix the issue. This resulted in Jordan visiting Winkley in May, and days later obtaining the appropriate shoes. Based on this evidence, no reasonable jury could conclude that nurses Frisk, Martin, or McFarlane were deliberately indifferent to Jordan's pain. *See Dean*, 18 F.4th at 242. (concluding a delay shows deliberate indifference only if "the defendant's actions or inaction caused the delay in [the plaintiff's] treatment.").

Jordan counters that the district court overlooked evidence that certain defendants interfered with his ability to get new rocker-bottom shoes. He first points to Dr. Daughty's cancellation of the original shoe order on November 24, 2021. The record does not reveal why the order was cancelled, but a new order was placed four days later. In the context of Dr. Daughtry's other actions in diligently addressing Jordan's requests for new shoes, this brief, unexplained interruption does not support a finding

that Dr. Daughtry acted with deliberate indifference. *See Gutierrez v. Peters*, 111 F.3d 1364, 1374–75 (7th Cir. 1997) (considering "the totality of an inmate's medical care" and concluding that "occasional delays" amidst months of treatment did not evince deliberate indifference).

Second, Jordan argues that a jury could conclude that Nurse McFarlane was deliberately indifferent for instructing him in December 2021 to purchase New Balance tennis shoes instead of working to secure the proper rocker-bottom shoes from Winkley. But the New Balance shoes were recommended by Dr. Hilbert. *See Riley*, 126 F.4th 1287, 1296 & n.47 (no deliberate indifference where prison medical staff sought to comply with specialist's treatment recommendation by instructing defendant to purchase shoes from the prison catalog). And prison medical staff continued to work with Winkley during December 2021 and January 2022 to get the proper modifications to Jordan's medical shoes.

Jordan also argues that Gunderson, the nursing coordinator, acted with deliberate indifference when she dismissed his grievance about the delay in receiving rocker-bottom shoes. He suggests that she should have known more about his care and, had she known more, she would have been compelled to act. But an "official's failure to alleviate a significant risk that [s]he should have perceived but did not" does not violate the Eighth Amendment. *Farmer*, 511 U.S. at 838.

Finally, we address two remaining points. First, Jordan identifies many instances where he contends the defendants did not properly follow prison policies. For example, he says that prison policy requires the defendants to "conduct investigations … and recommend appropriate actions" and execute "strong collaboration between nurses." But violations of policy alone cannot show deliberate indifference. *Hunter v. Mueske*, 73 F.4th 561, 567 n.1 (7th Cir. 2023). Second, Jordan argues generally that the district court failed to properly apply the summary judgment standard. But we see no error. And for the reasons we have explained, Jordan has not presented evidence from which a reasonable jury could conclude that any of the defendants were deliberately indifferent to his foot conditions.

AFFIRMED