NONPRECEDENTIAL DISPOSITION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 January 27, 2026*
Decided January 28, 2026

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 25-1468

MARK NELSON,
Plaintiff-Appellant,

v.

KIRA LABBY,
Defendant-Appellee.

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

No. 23-CV-1567

William E. Duffin,
Magistrate Judge.

O R D E R

Mark Nelson, a Wisconsin state prisoner, appeals the summary judgment rejecting his claim that a prison doctor, Kira Labby, was deliberately indifferent to his pain after he fractured his shoulder. *See* 42 U.S.C. § 1983. We affirm.

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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).

We recount the facts in the light most favorable to Nelson, the party opposing summary judgment, and draw all reasonable inferences in his favor. *See Riley v. Waterman*, 126 F.4th 1287, 1295 (7th Cir. 2025). On February 14, 2022, Nelson, incarcerated at Redgranite Correctional Institution, tripped over a fan cord in the bathroom and fractured his left shoulder. He was sent to a nearby emergency room, where he was prescribed hydrocodone-acetaminophen for pain and recommended to use a sling. Nelson took the medication until February 22.

In the meantime, Dr. Labby, a primary-care physician at Redgranite, took over Nelson's care. The two give different accounts of their first meeting on February 28: Nelson states that he told Dr. Labby that his pain was tolerable only when he used the hydrocodone-acetaminophen. Dr. Labby says that Nelson told her that his pain was tolerable with just the acetaminophen. She adds that if Nelson had complained that the acetaminophen was not working, she would have prescribed something like tramadol (a milder opioid) or a muscle relaxant.

On March 7, Nelson was seen for an "urgent consult," at Dr. Labby's direction, by an orthopedic surgeon at the University of Wisconsin School of Medicine and Public Health in Madison. The surgeon noted that Nelson's shoulder was healing, opined that surgery was not necessary, recommended that Nelson use physical therapy to increase his range of motion in his shoulder, and prescribed oxycodone for the first two weeks of physical therapy.

Three days later, Dr. Labby ordered physical therapy but did not order oxycodone because opioids are rarely prescribed in prisons, given safety and security concerns. Dr. Labby did, however, prescribe anti-inflammatory medications, acetaminophen, and topical muscle rubs to manage Nelson's pain.

Nelson took his prescribed medications and began physical therapy, but within a couple of weeks, he refused further sessions because the exercises caused him severe pain. He was soon seen again by Dr. Labby, who examined him and assured him that recent x-rays showed that his fracture was healing appropriately. When he complained of experiencing "ongoing pain," Dr. Labby continued to prescribe anti-inflammatory medications, acetaminophen, and topical muscle rubs.

In June, Nelson had a follow-up visit with the orthopedic surgeon, who again prescribed oxycodone to use for pain management before physical therapy. Dr. Labby

told Nelson she could not order oxycodone for security reasons, and she offered him a muscle relaxant if he would agree to return to physical therapy. Nelson attested that he declined the muscle relaxant because Dr. Labby offered it to him as a "bribe" in exchange for his return to physical therapy.

In early 2023, Nelson sued Dr. Labby in the Western District of Wisconsin, asserting that she violated his rights under the Eighth Amendment by failing to treat his pain and delaying his initial visit with the surgeon. *See* 42 U.S.C. § 1983.

In September 2023, the district judge screened Nelson's complaint, *see* 28 U.S.C. § 1915A, and allowed Nelson to proceed only on his theory that Dr. Labby was deliberately indifferent to his medical needs by not having him seen urgently by an orthopedist who could properly treat him. Two months later, the judge granted Nelson's unopposed motion to transfer the case to the Eastern District of Wisconsin.

Around this time, Dr. Labby referred Nelson to a pain-management specialist, who determined that an undiagnosed torn rotator cuff was causing the pain.

Dr. Labby later moved for summary judgment. Nelson responded, and in doing so, argued for the first time that Dr. Labby was also deliberately indifferent by failing to diagnose his torn rotator cuff.

The magistrate judge granted Dr. Labby's motion for summary judgment. The judge determined that no reasonable jury could conclude that Dr. Labby's treatment of Nelson's shoulder was blatantly inappropriate. In the judge's view, Nelson received extensive medical care—including tests, x-rays, specialist visits, and hospital visits—and Dr. Labby's decision to prescribe acetaminophen and anti-inflammatories instead of opioids was an exercise of her professional judgment. As for Nelson's contention about the undiagnosed torn rotator cuff, the judge declined to consider it because it exceeded the scope of the screening order.

On appeal, Nelson maintains that he provided sufficient evidence that Dr. Labby's withholding of stronger pain medication was contrary to professional medical standards. But to defeat Dr. Labby's motion for summary judgment, Nelson needed to provide enough evidence from which a reasonable jury could conclude that Dr. Labby was deliberately indifferent to his pain—meaning that she "*actually* knew of and disregarded a substantial risk of harm." *McDaniel v. Syed*, 115 F.4th 805, 832 (7th Cir. 2024). We defer to a medical professional's treatment decisions unless there is

"such a substantial departure from accepted professional judgment . . . as to demonstrate that the person responsible actually did not base the decision on such a judgment." *Id.* Nelson cannot meet this burden. He introduced no evidence to call into question Dr. Labby's specific treatment decisions that included several pain-management options—anti-inflammatory medications, acetaminophen, and topical muscle rubs—over the course of several months. Nor does Nelson offer evidence to undermine Dr. Labby's statement that she did not prescribe opioids because of the risks associated with dispensing that medication in a prison. Nelson may have preferred receiving an opioid medication recommended by the orthopedic surgeon, but a "[d]isagreement . . . between two medical professionals[] about the proper course of treatment generally is insufficient, by itself, to establish an Eighth Amendment violation." *Pyles v. Fahim*, 771 F.3d 403, 409 (7th Cir. 2014).

We have considered Nelson's remaining arguments, and none has merit.

AFFIRMED