NONPRECEDENTIAL DISPOSITION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 July 9, 2025*
Decided July 9, 2025

Before

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 24-3311

DAVID A. PEARSON, JR.,
Plaintiff-Appellant,

v.

CHRISTOPHER STEVENS, et al.,
Defendants-Appellees.

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

No. 23-C-1426

William C. Griesbach,
Judge.

O R D E R

David Pearson, a prisoner at Green Bay Correctional Institution, sued the warden, deputy warden, and administrative captain for violating his rights under the Eighth Amendment. *See* 42 U.S.C. § 1983. He alleged that prison staff subjected him to unsanitary conditions—including an infestation of mice and fruit flies, a toilet with

* 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).

restricted flushing, a lack of cleaning supplies, and limited access to showers—and prohibited him from exercising for weeks at a time. The district court entered summary judgment for the defendants because the conditions of which Pearson complained were not objectively serious enough to amount to a constitutional deprivation, and the defendants—who were operating with extreme staffing shortages—did not act with deliberate indifference. We affirm.

As an initial matter, we address the district court's decision to deem the defendants' proposed facts admitted because Pearson failed to respond properly under the Eastern District of Wisconsin's Local Rule 56(b)(2)(B). Pearson provided a paragraph-by-paragraph response to the defendants' proposed findings of fact as the local rules require and submitted it ten days before it was due. But the district did not acknowledge that document, concluded that Pearson had not complied with the local rules by failing properly to respond to the defendants' proposed facts, and deemed the defendants' proposed facts admitted. Because Pearson responded according to the local rules, we consider his response and recite the facts in the light most favorable to him. *See id.* at 816.

Pearson arrived at Green Bay in July 2023 and was placed in the cell hall. At that time, Green Bay officials restricted prisoners' movements due to severe staffing shortages—the correctional officer and sergeant vacancy rate ranged from 38.4% to 40.9%. The defendants fully suspended recreation for all prisoners for the first three weeks of Pearson's time at the prison. On July 25, Pearson was moved into the prison's dormitory, which is for "well-behaved" prisoners and allows more freedom, such as access to day rooms and showers. Seven weeks later, on September 12, he was moved back to the cell hall for 16 days of confinement for disciplinary reasons, and he remained in the cell hall after that period ended. Recreation was still suspended for prisoners in the cell hall until October 9. When recreation restarted on November 14, it was limited to one 50-minute indoor session per week. After November 14, it increased to two sessions per week.

While in the cell hall, Pearson shared a small cell with one other person. During times of restricted movement, they were fully confined to the cell except for seven-minute showers once or twice per week. The cell had a toilet that could flush once every five minutes, but if someone tried to flush it more frequently than that, it would lock for one hour. This mechanism was in place to prevent flooding in the cells. Because prisoners were not allowed out of their cells, Pearson explained that he sometimes had to eat meals next to the toilet when it would not flush. Mice and fruit flies infested the

cell hall, so prison officials hired pest control to come every two weeks. Pearson blames the infestation on the naturally foul odors caused by the shower and flushing restrictions, but the defendants assert that prisoners attracted the mice (sometimes deliberately) by keeping food in their cells. Regardless, prisoners would receive cleaning supplies once per week upon request.

Pearson sued the warden, deputy warden, and administrative captain, arguing that these living conditions violated his rights under the Eighth Amendment. But the district court entered summary judgment for the defendants. It concluded that no reasonable juror could find that the prison's conditions were offensive enough to violate the Eighth Amendment or that the defendants acted with deliberate indifference when navigating extreme staffing shortages.

On appeal, Pearson generally challenges the court's decision by restating the conditions he alleged in his complaint and listing relevant caselaw. To create a triable question whether the defendants violated his rights under the Eighth Amendment, Pearson must present some evidence from which a reasonable juror could find that (1) the deprivation was objectively and sufficiently serious, and (2) the defendants were deliberately indifferent to the risks to his health and safety. *See Farmer v. Brennan*, 511 U.S. 825, 834 (1994). We review the district court's grant of summary judgment de novo. *McDaniel*, 115 F.4th at 821–22.

Pearson first asserts that mice and fruit flies infested his cell. But he does not contest that the defendants hired pest control services to come every two weeks to address the issues. Because the defendants worked diligently to address the infestations, no reasonable juror could conclude that they were deliberately indifferent to the risks an infestation might impose. *See Sain v. Wood*, 512 F.3d 886, 895 (7th Cir. 2008) (explaining that "policy of 'frequent' exterminations … made monthly and in response to plaintiff's requests" could not support a finding of deliberate indifference).

Second, Pearson argues that the district court improperly discounted his assertions about the restrictions on flushing the toilet. Pearson restates that being forced to eat meals in his cell near a toilet that cannot be flushed is unsanitary. But Pearson has not presented any evidence beyond his general assertions about flushing restrictions that would enable a reasonable juror to conclude that the conditions he faced rose to the level of a constitutional deprivation. Indeed, it is undisputed that the toilet in Pearson's cell could be flushed every five minutes, and although the toilet could lock for an hour due to excessive flushing, Pearson did not identify any specific instances where the toilet did not function for an excessive period. *See Hardeman v. Curran*, 933 F.3d 816, 823

(7th Cir. 2019) (explaining that regular or prolonged exposure to "hundreds of unflushable toilets" is grossly unsanitary, whereas "[a] single clogged toilet" is not).

Third, Pearson restates that he received inadequate cleaning supplies. In the district court, Pearson asserted generally that mops and spray bottles were not available for regular use. But the deprivation of cleaning supplies amounts to a constitutional violation "only in extreme circumstances." *Gray v. Hardy*, 826 F.3d 1000, 1005 (7th Cir. 2016). And Pearson presented nothing to rebut the defendants' evidence that prisoners were provided with some cleaning supplies weekly, including dustpans, hand brooms, toilet brushes, and cleaning powder. Moreover, he did not identify any specific instance where he requested and was denied necessary cleaning supplies.

Fourth, Pearson argues that his lack of access to regular showers amounted to a constitutional deprivation. But the record shows that Pearson could shower, at a minimum, once per week, "and limiting inmates to weekly showers does not violate the Eighth Amendment." *Jaros v. Ill. Dep't of Corr.*, 684 F.3d 667, 671 (7th Cir. 2012).

Lastly, Pearson's claim that the defendants deprived him of sufficient opportunity to exercise also fails. A lack of recreation is sufficiently serious to rise to the level of an Eighth Amendment violation only in "extreme and prolonged situations where movement is denied to the point that the inmate's health is threatened." *Antonelli v. Sheahan*, 81 F.3d 1422, 1432 (7th Cir. 1996). Pearson went for about three weeks without any recreation when he first arrived at Green Bay in July and almost two more weeks in September and October when he moved back to the cell hall. During these periods, his cell did not provide sufficient space to exercise.

But we need not decide whether these periods of restricted movement were sufficiently serious to violate the Eighth Amendment, because no reasonable juror could conclude that the defendants acted with deliberate indifference when they imposed the movement restrictions. Instead, prison officials used the short-term restrictions to maintain order and security until the staffing shortage was resolved. Even if the defendants' plans were imperfect, the gradual lifting of movement restrictions over time demonstrated a "commitment to addressing the problem," not a callous disregard for prisoners' well-being. *See Rasho v. Jeffreys*, 22 F.4th 703, 710–11 (7th Cir. 2022).

AFFIRMED