NONPRECEDENTIAL DISPOSITION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 10, 2025

Before

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 24-1019

MONZER AL-KASSAR,
Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA,
Defendant-Appellee.

Appeal from the United States District Court for the Southern District of Indiana, Terre Haute Division.

No. 2:18-cv-00086-JPH-MKK

James P. Hanlon,
Judge.

O R D E R

Monzer al-Kassar, a prisoner previously incarcerated at the Federal Correctional Institute in Terre Haute, Indiana, sued the United States under the Federal Tort Claims Act, 28 U.S.C. §§ 2671 to 2680. He alleged that from September to October 2016, the Bureau of Prisons negligently and intentionally allowed deplorable conditions at FCI

* 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).

Terre Haute and denied him medical care. After a bench trial, the district court entered judgment in favor of the United States. Al-Kassar appeals, and we affirm.

Al-Kassar was an inmate in the general population of the Communications Management Unit (CMU) at FCI Terre Haute from 2011 until 2016. In September 2016, before being transferred to another prison, al-Kassar spent about one month in the Special Housing Unit of the CMU. The Special Housing Unit consisted of six to eight cells separated from the rest of the CMU. After he was transferred to a new prison, al-Kassar sued the United States, alleging that the Bureau of Prisons breached its duty of care to him by allowing conditions akin to torture in the Special Housing Unit. As a result, al-Kassar asserted, his health deteriorated. The district court recruited counsel for al-Kassar, and the case proceeded to a bench trial.

At trial, al-Kassar testified that his cell was excessively hot, loud, and unsanitary, and that he was not given medications or adequate time outside his cell. But the district court did not credit al-Kassar's testimony because it was often inconsistent or evasive. For example, the district court compared al-Kassar's trial testimony that there was no exhaust fan to cool down his cell with his prior grievance stating that the "industrial size exhaust fan was purposefully left running in the cell window." The court also contrasted al-Kassar's trial testimony that he was never given his self-carry medications with his contemporaneous statements during a phone call to his daughter that he received his medications and deposition testimony that he had been given his medications after a week in the Special Housing Unit.

Although al-Kassar presented testimony and affidavits from other inmates, the district court also found their sworn statements incredible or irrelevant. For example, one witness gave conflicting accounts of the airflow within the cells and implausibly asserted that the heat in the cells was like "walking into a furnace … 24 hours a day, everyday." A second witness was not in the Special Housing Unit at the same time as al-Kassar. And a third witness was not housed at FCI Terre Haute at all during the relevant period.

Instead, the district court found credible the testimony of Bureau employees, including the former warden and staff responsible for overseeing the unit, and entered judgment for the United States. Multiple Bureau employees testified that they regularly visited the Special Housing Unit, and that it was not excessively hot, loud, or unsanitary, and that al-Kassar received medical care. Further, two employees testified that they regularly interacted with al-Kassar during his time in the Special Housing Unit, and he never showed signs of distress or complained about the conditions. The

former warden testified that he visited the unit at least weekly and did not observe any unacceptable conditions during al-Kassar's time there. The warden also testified that staff conducted internal surveys regarding noise level, temperature, ventilation, and sanitation, and all readings were within acceptable levels. Finally, the district court found that the results of an independent accreditation audit, conducted in June 2016, bolstered the testimony of these employees.

Al-Kassar appeals, first arguing that the district court should have stayed the proceedings because the Department of Justice Office of the Inspector General was investigating the independent accreditation process for federal prisons around the time of the trial. But it is not clear that the investigation was public knowledge until the report was published in November 2023, months after the district court entered judgment. Indeed, al-Kassar never asked the district court to stay the case while the investigation was completed. Even if the district court were aware of an ongoing investigation, we would review its decision not to continue the proceedings only for abuse of discretion. *See Jackson v. Willis*, 844 F.3d 696, 699–700 (7th Cir. 2016). The court did not abuse its discretion by failing sua sponte to delay the proceedings based on mere speculation that some evidence favorable to al-Kassar might eventually emerge.

Relatedly, al-Kassar next argues that the district court erroneously relied on the June 2016 accreditation audit to support its credibility findings. He says that new evidence in the November 2023 report on the accreditation process contradicts the testimony of the Bureau employees and the earlier audit's findings.

We see no error in the district court's reliance on the 2016 audit. The 2023 report, which al-Kassar appends to his brief, explains that beginning in December 2018, the Bureau contracted to receive third-party audits of its facilities, but the contractor did not conduct any independent review of prison facilities. As best we can tell, the report neither covers the period al-Kassar was in the Special Housing Unit nor discusses FCI Terre Haute specifically. In any event, al-Kassar did not move in the district court for a new trial under Federal Rule of Civil Procedure 59(a) or to reopen the judgment under Rule 60(b)(2) based on newly discovered evidence. And we do not consider new evidence for the first time on appeal. *Midwest Fence Corp. v. United States Dep't of Transp.*, 840 F.3d 932, 946–47 (7th Cir. 2016).

To the extent al-Kassar disputes more generally the district court's credibility determinations, his argument is unavailing. This court gives the district court's credibility determinations "a high degree of deference" and may reverse only where the court credited "patently improbable testimony or its credibility assessments conflict

with its other factual findings." *PNC Bank, Nat. Ass'n v. Boytor*, 109 F.4th 495, 503 (7th Cir. 2024) (quoting *Morisch v. United States*, 653 F.3d 522, 529 (7th Cir. 2011)). That is not the case here. The district court relied on ample evidence when it discounted al-Kassar's testimony, particularly the inconsistencies between statements in his grievance, complaint, deposition, and trial testimony. Further, al-Kassar's account of the conditions conflicted with the plausible testimony of Bureau employees, some of whom conceded that while the cells were sometimes warm or loud, conditions were not extreme. Further, the Bureau employees testified consistently with one another, and their testimony was supported by internal Bureau surveys.

Next, al-Kassar argues that during discovery he should have been provided with the original Arabic transcription of the phone call he had with his daughter but instead was given only the English translation. But we see no error. Al-Kassar has not explained how the original transcription of the conversation would have differed from the English translation he introduced at trial. Moreover, while al-Kassar testified that the translation did not "show the emotion" of the conversation, he agreed that the translation "look[ed] about right or about accurate."

Finally, al-Kassar argues that the district court erred by failing to appoint an Arabic language interpreter to help him better follow the proceedings and to assist his attorneys. But the court was not required to appoint an interpreter where al-Kassar's lawsuit was not "instituted by the United States." 28 U.S.C. § 1827(d)(1); *see also Ramirez v. Young*, 906 F.3d 530, 536–37 (7th Cir. 2018) (discussing right to interpreter in certain judicial and quasi-judicial proceedings). And al-Kassar never requested interpretation services in the district court, *see* 18 U.S.C. § 1827(g)(4), so we see no error.

AFFIRMED