NONPRECEDENTIAL DISPOSITION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 September 2, 2025*
Decided September 4, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-1836

GREGORY McMILLEN,
Plaintiff-Appellant,

v.

WEXFORD HEALTH SOURCES, INC., et al,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 17-cv-00999

John F. Kness,
Judge.

O R D E R

Gregory McMillen, an Illinois prisoner, appeals the entry of summary judgment on his claims that prison doctors were deliberately indifferent to his eye, heart, and lung diseases, in violation of his rights under the Eighth Amendment. Because no reasonable

* 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).

jury could find that the prison doctors were deliberately indifferent or that their actions aggravated his injuries, we affirm the judgment.

McMillen's suit arises from loss of vision caused by complications from diabetes and two stays in the hospital triggered by acute cardiac and pulmonary symptoms. We recount the facts in the light most favorable to McMillen, the party opposing summary judgment. *See Arce v. Wexford Health Sources, Inc.*, 75 F.4th 673, 678 (7th Cir. 2023).

McMillen has suffered from diabetes-related eye issues for over a decade. In 2013 Dr. Saleh Obaisi, then the medical director at Stateville Correctional Center, approved McMillen to see an outside ophthalmologist, Dr. Joseph Civantos, who diagnosed McMillen with diabetic retinopathy and macular edema. At that appointment, Dr. Civantos recommended treating these conditions with either laser surgery or intravitreal injections, and McMillen chose the laser surgery. In April 2016, he was taken to see another outside ophthalmologist, Dr. Jennifer Lim, who provided him intravitreal injections for the first time and recommended that he return for a follow-up appointment in a month. But despite repeatedly reminding medical staff, McMillen was not taken by prison staff for his next appointment until that August. Similarly, after Dr. Lim provided injections in November 2016, she again recommended that he return in a month, but McMillen was not brought for a follow-up until February 2017. At that appointment, Dr. Lim determined that McMillen now had macular atrophy in his left eye, and she administered an injection only to his right eye. McMillen began receiving intravitreal injections to both eyes from Dr. Civantos on a prompter schedule, but in December 2017, Dr. Civantos concluded that the loss of vision in the left eye was permanent, so any further injections in that eye would not improve McMillen's vision.

In addition to these vision problems, McMillen has long received a variety of prescriptions for cardiac and breathing problems. In April 2017, he was hospitalized for a week because of severe chest pain. In the preceding five months, he had complained to medical staff of chest pain and difficulty breathing, and Dr. Obaisi prescribed repeated nebulizer treatments for McMillen's pre-existing asthma, though McMillen had insisted the pain was not related to his asthma. Eventually, in July 2017 and January 2018, he saw an outside cardiologist, who recommended that McMillen also be referred to a pulmonologist. Meanwhile, Dr. Rozel Elazegui, who served as interim medical director after Dr. Obaisi's death, continued treating McMillen through April 2018, when he was hospitalized again, suffering from pneumonia and exacerbated chronic obstructive pulmonary disease. After his discharge, he received a portable defibrillator and participated in two sessions of occupational therapy. That June he saw

a team of pulmonologists, who recommended further testing and speculated that he might have pulmonary edema, but did not render a new diagnosis or recommend changes to his treatment.

By that point, McMillen had already brought this suit against Dr. Obaisi's estate and Wexford Health Sources, Inc., the prison's healthcare contractor. McMillen later amended the complaint with the assistance of court-recruited counsel, adding Dr. Elazegui as a defendant. As relevant to this appeal, McMillen alleged that Dr. Obaisi was deliberately indifferent to his eye condition and that both doctors were deliberately indifferent to his heart and lung conditions.

The court entered summary judgment in favor of all defendants. It concluded that McMillen had not presented evidence to suggest that any delays in administering the injections were the result of a lack of medical judgment, nor did he offer evidence that the delays themselves caused any harm. He also had failed to present sufficient evidence that Dr. Obaisi was aware of the danger of his heart conditions prior to his 2017 hospitalization, or that either doctor's treatments leading up to his 2018 hospitalization fell short of constitutional guarantees.

On appeal, McMillen maintains that the various delays in his treatment between 2014 and 2018 were evidence of the doctors' deliberate indifference to his conditions. To withstand summary judgment on his Eighth Amendment claims, McMillen needed evidence that he had an objectively serious medical condition and that the defendants were subjectively aware of and disregarded an excessive risk to his health. *See Farmer v. Brennan*, 511 U.S. 825, 834, 837 (1994). And to support his theories that the defendants impermissibly delayed providing him treatment, he needed to present verifying medical evidence that the delays, rather than the underlying conditions, caused any harm. *See Arce*, 75 F.4th at 680. The defendants concede that McMillen's conditions were serious, so we focus on whether he presented enough evidence to allow a reasonable jury to conclude that the defendants were aware of yet disregarded an excessive risk to his health and that any delays caused his injuries.

Concerning his loss of vision, McMillen argues that a jury could find that Dr. Obaisi ignored Dr. Lim's recommended timeline for follow-up treatments. But McMillen has failed to show that these delays caused some harm. *See id.*; *Gabb v. Wexford Health Sources, Inc.*, 945 F.3d 1027, 1034 (7th Cir. 2019). The defendants' expert, Dr. Walter Jay, opined that McMillen suffered no significant vision loss during the gaps between treatments and that any loss he did suffer was a result of his underlying conditions. McMillen presented no expert of his own to contradict Dr. Jay's opinion or

to explain how more frequent injections might have staved off vision loss in his left eye. And a jury could not make such a medically complex determination based solely on medical records that contain a "bare recitation of treatment received" and an unadorned schedule for follow-up appointments. *Williams v. Liefer*, 491 F.3d 710, 715–16 (7th Cir. 2007) (discussing when treatment records can constitute "verifying medical evidence" of harm from delay). Although McMillen reprises the allegation from his amended complaint that Dr. Lim told him in 2016 that the delays in treatment caused his vision loss, that allegation is not evidence, *see Balle v. Kennedy*, 73 F.4th 545, 549 n.3 (7th Cir. 2023), and he did not later support this assertion with admissible evidence showing a causal connection.

Regarding his cardiac and pulmonary conditions, McMillen first argues that Dr. Obaisi persisted in providing only nebulizer treatments for asthma, even as he complained to staff that his symptoms were worsening before his 2017 hospitalization. Although a doctor's persistence with treatments he knows are ineffective may be evidence of deliberate indifference, McMillen has not shown that four months of nebulizer treatments for an asthmatic patient is so far afield of professional standards that it amounts to cruel and unusual punishment. *See Cesal v. Moats*, 851 F.3d 714, 724–25 (7th Cir. 2017). And McMillen did not provide any details regarding how or when he informed Dr. Obaisi that the nebulizer treatments were insufficient and so did not demonstrate the doctor's subjective knowledge that they were ineffective. A prisoner's mere disagreement with the course of treatment is not evidence of deliberate indifference. *See Lewis v. Sood*, 126 F.4th 525, 531–32 (7th Cir. 2025).

McMillen otherwise argues that both doctors delayed his follow-up appointments with the cardiologist and referral to a pulmonologist. But, again, McMillen identified no evidence that his cardiac or breathing conditions were exacerbated by any delay. *See Arce*, 75 F.4th at 680. He had not, for example, provided evidence to suggest that a pulmonologist would have been able to diagnose and treat the conditions for which he was hospitalized better than the medical staff who treated him in the interim. Indeed, after he saw his pulmonologists in June 2018, they did not recommend a change in treatment to any underlying conditions. We have only McMillen's speculation that an earlier consultation would have improved his health.

Because the record precludes a finding of deliberate indifference, we DENY McMillen's renewed motion for recruitment of counsel and AFFIRM the judgment of the district court.