

NONPRECEDENTIAL DISPOSITION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 May 28, 2024*

Decided May 31, 2024

BeforeFRANK H. EASTERBROOK, *Circuit Judge*MICHAEL B. BRENNAN, *Circuit Judge*JOSHUA P. KOLAR, *Circuit Judge*

No. 23-2816

DAVID HOLMES,
*Plaintiff-Appellant,*Appeal from the United States District
Court for the Central District of Illinois.*v.*

No. 22-cv-4164

ROBERT HAMILTON, et al.,
*Defendants-Appellees.*James E. Shadid,
*Judge.***ORDER**

David Holmes, an Illinois prisoner, was ordered to descend stairs that prison officials knew were “inoperable”; he fell through the stairs, ended up in a cast, and now must use a walker. He has sued the warden and chief engineer of the prison, alleging that they knew about the problem with the stairs but deliberately allowed officers to

* 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).

order prisoners to use them, violating his Eighth Amendment rights. *See* 42 U.S.C. § 1983. The district court dismissed the suit for failure to state a claim, but because Holmes has stated a valid Eighth Amendment claim, we vacate and remand.

In reviewing the dismissal of Holmes's complaint for failure to state a claim, we recite the facts in his complaint (and those in his brief on appeal that are consistent with his complaint), taking them and their reasonable inferences as true. *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015). In December 2020, Holmes was ordered to descend stairs from the commissary at East Moline Correctional Center to his housing unit. The warden and the chief engineer of the prison "knew" that the stairs were a "hazard" and "inoperable," but they allowed officers to order prisoners "to use them anyway." As Holmes stepped on one "damage[d]" stair, it "crumbled" beneath him. He fell through it, fracturing his ankle and foot. He received a cast and now requires a walker.

The district court dismissed the complaint at screening, 28 U.S.C. § 1915A, before the defendants were served, ruling that it did not state a claim that the defendants violated Holmes's Eighth Amendment rights. The court compared our decision involving a prisoner who fell down stairs that were wet from shower shoes, *see Pyles v. Fahim*, 771 F.3d 403, 409 (7th Cir. 2014) (no valid Eighth Amendment claim), to one involving a handcuffed prisoner who fell down garbage-strewn stairs, *see Anderson v. Morrison*, 835 F.3d 681, 683 (7th Cir. 2016) (valid Eighth Amendment claim). It ruled that Holmes's fall was more like that in *Pyles* than in *Anderson* because he was not handcuffed and could "take reasonable measures" to protect himself from the stairs' dangers.

On appeal, Holmes contends that he stated a claim of a violation of his Eighth Amendment rights. We review the dismissal *de novo*, giving the complaint "the benefit of imagination, so long as the hypotheses are consistent with the complaint." *Chapman v. Yellow Cab Coop.*, 875 F.3d 846, 848 (7th Cir. 2017). Further, because Holmes is *pro se*, we construe his allegations liberally. *Perez*, 792 F.3d at 776 (7th Cir. 2015). To state an Eighth Amendment claim, Holmes had to allege that the defendants knew of but consciously disregarded a substantial risk of severe harm to him. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994); *Pyles*, 771 F.3d at 409.

Holmes has set forth such a claim. At screening, *pro se* plaintiffs need only to plead a "plausible claim for relief," which is "not an exacting standard." *Balle v. Kennedy*, 73 F.4th 545, 557 (7th Cir. 2023) (citation omitted). Holmes plausibly alleges that the defendants knew that the stairs were "inoperable," yet they let officers order him to use the stairs, subjecting him to a substantial risk of serious injury—which

occurred when the stairs “crumbled” and left him in a cast and a walker. Requiring prisoners to use stairs, even when wet, typically does not violate their Eighth Amendment rights, because prisoners can ordinarily manage the dangers of stairs, wet or not. *See Anderson*, 835 F.3d at 683. But like the plaintiff in *Anderson*, who was handcuffed and ordered to walk on garbage-strewn stairs, Holmes could not manage the danger he faced here when ordered to use “inoperable” stairs. Even though he was not cuffed, the “inoperable” condition of the stairs permits a reasonable inference that he could not take *any* measures to reduce the substantial peril that they posed. Whether the defendants deliberately ignored that peril is “a determination for a factfinder to make, not a basis for dismissing a claim at the pleading stage.” *Balle*, 73 F.4th at 558.

We are aware that Holmes requested punitive damages for injuries caused by the “negligence” of the defendants, but this request does not change our conclusion. Pro se litigants may fail to grasp legal subtleties. *See Perez*, 792 F.3d at 785. Thus district courts “run afoul of [their] mandate to interpret pro se complaints less stringently” than counsel pleadings, *Antonelli v. Sheahan*, 81 F.3d 1422, 1428 (7th Cir. 1996), when they dismiss pro se complaints because of the inartful use of one word. True, negligence is insufficient for a claim of deliberate indifference, *Pyles*, 771 F.3d at 409, but we do not understand Holmes to allege that negligence is the legal theory of his claim because plaintiffs are not required to plead legal theories in their complaints. *Chapman*, 875 F.3d at 848. Further, Holmes confines his use of “negligence” to his request for punitive damages, and, on appeal, he properly identifies the legal theory of his claim as “deliberate indifference” under the “[E]ighth [A]mendment.” The defendants may argue later that he pleaded himself out of court in his pursuit of punitive damages, *see Antonelli*, 81 F.3d at 1429, but he has not pleaded himself out of an Eighth Amendment claim generally. When a pro se plaintiff alleges that a defendant “had to know” about, but nonetheless disregarded, a “great danger” to him, the plaintiff has adequately pleaded a mindset “at least as high as deliberate indifference,” even when he elsewhere used the word “negligence.” *Swofford v. Mandrell*, 969 F.2d 547, 550 (7th Cir. 1992) (reversing dismissal of complaint). Likewise, because Holmes alleged that the defendants “knew” of but disregarded the “hazard” of “inoperable” stairs, he too adequately alleged deliberate indifference, despite his use of the word “negligence” elsewhere.

We close by observing that we take no position on the question whether Holmes’s suit has factual merit. And after defendants have been served, they may, among other actions, move for judgment on the pleadings or for a more definite statement. FED. R. CIV. P. 12(c), (e). Further proceedings will be required to determine

whether the defendants knew that the stairs were inoperable and whether they (or Holmes) could have done anything to avert the risk that they posed to Holmes. *See Farmer*, 511 U.S. at 837. Prison officials have wide latitude to determine how to use their limited resources to run prisons, and an alleged failure to avert a risk of substantial harm must have been within the defendants' power to address. *See Hunter v. Mueske*, 73 F.4th 561, 566 (7th Cir. 2023); *see also Rasho v. Jeffreys*, 22 F.4th 703, 711 (7th Cir. 2022). All we decide today is that Holmes has alleged a plausible claim for relief and that defendants should be served with process so that the ordinary apparatus of litigation may get underway.

We thus VACATE the dismissal and REMAND for further proceedings.