NONPRECEDENTIAL DISPOSITION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 27, 2025*
Decided May 28, 2025

Before

DIANE S. SYKES, *Chief Judge*

FRANK H. EASTERBROOK, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 24-1975

BRIAN A. DUCKSWORTH,
Plaintiff-Appellant,

v.

HANNAH UTTER,
Defendant-Appellee.

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

No. 21-cv-197-pp

Pamela Pepper,
Chief Judge.

O R D E R

Brian Ducksworth, a Wisconsin prisoner, sued Hannah Utter, the Health Services Manager at Green Bay Correctional Institution, for failing to treat his COVID-19 symptoms. He asserted that the alleged lack of medical care violated his rights under the Eighth Amendment. *See* 42 U.S.C. § 1983. The district judge determined that Ducksworth did not furnish evidence that Utter was deliberately indifferent to his

* 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).

symptoms and therefore granted Utter's motion for summary judgment. Because Ducksworth lacks evidence that Utter knew about his medical condition, we affirm.

Ducksworth tested positive for COVID-19 in August 2020. Despite experiencing pain, congestion, headaches, and respiratory issues, he received no treatment until November 2021, after his transfer in June 2021 to a different facility.

Between contracting COVID-19 and being transferred, Ducksworth repeatedly sought medical attention through the prison's electronic treatment request system, which nursing staff reviewed daily. Specifically, on the day of his positive test, Ducksworth complained of an issue with his eye, and it was soon addressed with a non-urgent sick call. A month later, he complained of clogged ears, and nursing staff provided ear drops for him. In January 2021, he reported nasal and chest congestion, but nursing staff did not observe these symptoms after examining him. And two months later, nursing staff examined him after he reported breathing difficulties; they recommended deep breathing to alleviate his symptoms. Utter, as manager, oversaw the treatment request system but did not diagnose, prescribe medication, or directly manage patient records.

Asserting that Utter's deliberate indifference caused a harmful delay in the treatment of his COVID-19 symptoms, Ducksworth initiated this lawsuit under 42 U.S.C. § 1983. Both parties moved for summary judgment, and the district judge granted Utter's motion. The judge first assumed that Ducksworth met the first requirement for an Eighth Amendment claim—that he suffered from an objectively serious medical condition—and so limited the analysis to whether Utter was subjectively aware of and consciously disregarded Ducksworth's condition. But because Utter did not review all requests for medical care, the judge explained that Utter's job duties alone could not prove that she knew about Ducksworth's symptoms. And Ducksworth failed to produce evidence that Utter reviewed any of his requests. Finally, the judge dismissed Ducksworth's allegation that Utter deliberately omitted COVID-19 treatment requests from discovery as "mere speculation."

We review the summary judgment decision de novo, giving Ducksworth the benefit of conflicting evidence and reasonable inferences. *Stockton v. Milwaukee County*, 44 F.4th 605, 614 (7th Cir. 2022). A claim under the Eighth Amendment requires a plaintiff to show that a condition posed an excessive risk to his health and safety and that the defendants knew of, yet disregarded, the risk. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994); *Stockton*, 44 F.4th at 614. Utter concedes that COVID-19 is a serious medical condition, so to get to a trial, Ducksworth needed evidence from which a reasonable

jury could determine that Utter deliberately ignored his need for prevention and treatment of the virus. *See Stockton*, 44 F.4th at 615.

On this record, however, there is no genuine dispute of material fact regarding whether Utter was personally involved in Ducksworth's care or whether she facilitated, approved, or turned a blind eye to the deliberate indifference of the medical providers. There is no supervisory liability under § 1983; Utter can be liable for her "own acts but not for those of subordinates, or for failing to ensure that subordinates carry out their tasks correctly." *Horshaw v. Casper*, 910 F.3d 1027, 1029–30 (7th Cir. 2018) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 676–77 (2009); *Vance v. Rumsfeld*, 701 F.3d 193, 203–05 (7th Cir. 2012) (en banc)). Ducksworth does not dispute that Utter became involved in facilitating prisoners' medical care only when nursing staff notified her of a prisoner's specific problem. Yet he provides no evidence that any of his complaints was forwarded to her.

Further, Ducksworth contends that Utter's job duties required her to ensure that his medical needs were met, but he cannot create a genuine dispute of fact simply by objecting to her sworn description of her job duties. *See Pulera v. Sarzant*, 966 F.3d 540, 551 (7th Cir. 2020). In any event, Utter, despite her medical training, was not a provider of medical care at the prison. Therefore, she was entitled to defer to the opinions and treatment plans of the nursing staff unless she was aware of a "medical treatment failure." *Stewart v. Wexford Health Sources, Inc.*, 14 F.4th 757, 767 (7th Cir. 2021); *see Berry v. Peterman*, 604 F.3d 435, 440 (7th Cir. 2010).

AFFIRMED