

NONPRECEDENTIAL DISPOSITION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 24, 2025*

Decided July 24, 2025

*Before*MICHAEL B. BRENNAN, *Circuit Judge*AMY J. ST. EVE, *Circuit Judge*NANCY L. MALDONADO, *Circuit Judge*

No. 24-2750

ANTONIO PARKER,
*Plaintiff-Appellant,**v.*CHRISTINE HOLMEN and LORETTA
JOHNSON,
*Defendants-Appellees.*Appeal from the United States District
Court for the Western District of
Wisconsin.

No. 21-cv-509-wmc

William M. Conley,
*Judge.***ORDER**

Antonio Parker, a Wisconsin prisoner, mistakenly received a medicine intended for another prisoner. He sued prison nurses under the Eighth Amendment to the Constitution, asserting that they failed to properly evaluate and treat him after they

* 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).

discovered the mistake. *See* 42 U.S.C. § 1983. The district court found no evidence of deliberate indifference and entered summary judgment for the nurses. We affirm.

We recount the facts in the light most favorable to Parker, the nonmoving party. *See Hackett v. City of South Bend*, 956 F.3d 504, 506 (7th Cir. 2020). In 2021, a correctional officer at Columbia Correctional Institution in Portage, Wisconsin, mistakenly gave Parker a medicine intended for another prisoner, and Parker took the medication thinking it was his. The officer realized his mix-up and reported it to a sergeant. Parker maintains that he was given three prescription medications—trazodone, an antidepressant; montelukast, an anti-asthmatic drug; and fluconazole, an antifungal. But the officer reported to the sergeant that he gave Parker an antihistamine, diphenhydramine (Benadryl). The sergeant called a nurse, Loretta Johnson, who said that Benadryl is an over-the-counter medication, so any reaction would be mild. She asked the sergeant to monitor Parker for any change in his condition. Parker told another nurse, Christine Holmen, that he had taken the wrong medication and asked her to pull him out of his cell for an evaluation. He conceded he was not experiencing any symptoms at the time. Parker says that Holmen laughed and told him that he would be alright.

Later that night, Parker developed symptoms including stomach pain, diarrhea, and dizziness. At some point, he lost consciousness and hit his head on a concrete slab. No one saw the fall. Parker asked an officer to call medical staff, but Parker says the officer refused.

Several days later, Parker—in response to health-services requests he filed asking to be seen by medical staff—received a response saying that he would be scheduled to be seen by a nurse. He filed a grievance stating that he should have been seen as soon as the nurses learned of the mistake. The institution’s complaint examiner affirmed the grievance, agreeing that Parker should have been evaluated right away.

Parker sued Holmen, Johnson, and other correctional staff under 42 U.S.C. § 1983 for acting with deliberate indifference to his health needs, in violation of his rights under the Eighth Amendment. He highlighted the defendants’ refusal to fully evaluate him after learning that he took the wrong medication.

The district court later granted the correctional staff’s motion for summary judgment based on Parker’s failure to exhaust his administrative remedies. This left Parker’s claims against only Holmen and Johnson.

The parties filed cross-motions for summary judgment. The district court granted the defendants' motion and denied Parker's. The court determined that there was insufficient evidence from which a reasonable jury could conclude that Holmen and Johnson acted with deliberate indifference. The court saw no evidence that Holmen had been told what medication Parker had taken or that Parker was exhibiting any symptoms. Nor was there evidence that Johnson knowingly ignored any substantial risk of harm, having recommended only that Parker continue to be monitored for ingesting diphenhydramine—a medication with limited side effects.

On appeal, Parker challenges the district court's determination that there was no evidence that the nurses acted with deliberate indifference. He points to the prison's response to his grievance, acknowledging that the medication mix-up should have prompted an evaluation by medical staff. This response, he contends, shows that the nurses must have understood the serious risk posed by his ingesting the wrong medication.

But to establish deliberate indifference, Parker must show that the nurses knew of and disregarded a substantial risk of harm because of the mistake. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994). With regard to Johnson, the undisputed evidence shows that she believed that Parker was given an over-the-counter allergy medication and that any reaction would be mild. As for Holmen, the record reflects that she did not know what medication Parker received, and she did not see him exhibit any symptoms (and he concedes he was not experiencing any at the time). Nothing on the record shows, then, that Holmen was aware of facts from which she could—and did—infer that Parker was at a substantial risk of serious harm. *See id.* Relatedly, to the extent Parker challenges the court's determination that the nurses did not act with deliberate indifference when they failed to evaluate him after he slipped and hit his head, he points to no evidence that either nurse was aware that the injury occurred.

Parker also challenges the denial of his requests for counsel. Parker moved for the recruitment of counsel to assist him with his case five times over the course of the proceedings. He contends that the court did not consider the complexity of the case and overstated his ability to represent himself. But the court appropriately exercised its discretion to deny the motions. Parker made three requests at inopportune times: one was filed too early in the litigation, a second sought assistance at a mediation that had not been requested, and a third came after summary judgment had been entered. The court also acted well within its discretion to deny the remaining two motions based on its belief that Parker could understand its orders, comply with deadlines, seek

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extensions, and conduct discovery. *See Pruitt v. Mote*, 503 F.3d 647, 654 (7th Cir. 2007) (en banc). At any rate, Parker—having not presented evidence showing that the nurses acted with deliberate indifference—has not shown a reasonable likelihood that counsel would have made a difference in the outcome of the litigation. *Id.* at 659.

We have considered Parker’s remaining arguments and none merits discussion.

AFFIRMED