

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

| | | |
|----------------------------|---|---------------------------|
| THE ESTATE OF WILLIAM TROY |) | |
| CLARK, |) | |
| |) | |
| Plaintiff, |) | |
| vs. |) | NO. 2:03-cv-00215-LJM-WGH |
| |) | |
| WILLIAM R HARRIS, |) | |
| JON STROCKRAHM, |) | |
| |) | |
| Defendants. |) | |

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

THE ESTATE OF WILLIAM TROY CLARK,)
by KIMI CLARK, Personal Representative)
Plaintiff,)

vs.)

2:03-cv-215-LJM-WGH

WILLIAM R. HARRIS, Individually and in his)
capacity as former Sheriff of Vigo County, Indiana,)
and JON STOCKRAHM, M.D., Individually and)
in his capacity as former Jail Physician of Vigo)
County, Indiana,)
Defendants.)

ORDER ON DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

This matter comes before the Court on the motion of defendant Jon Stockrahm, M.D. (“Dr. Stockrahm”) for summary judgment on the claims brought against him by the plaintiff, the Estate of William Troy Clark, by Kimi Clark, Personal Representative (“Plaintiff”). Specifically, Dr. Stockrahm asks the Court to find that no genuine issue of fact exists that Dr. Stockrahm did not violate the decedent’s due process rights by failing to provide necessary medical care. For the reasons discussed herein, Dr. Stockrahm’s motion is **GRANTED**.

I. BACKGROUND

Defendant William R. Harris (“Sheriff Harris”) hired Dr. Stockrahm in 1999 to provide the following services to the Vigo County Jail (the “Jail”): Respond to calls from the jail for medical care for inmates who needed or who asked for medical care; admit inmates as patients to a local hospital when

necessary; and be on call at designated times to respond to questions from the Jail nurse. Deposition of Sheriff Harris (“Harris Dep.”) at 33-34. At times when Dr. Stockrahm was not on call to respond to inquiries from the Jail nurse, the nurse was to direct her inquiries and requests for medical assistance to the local emergency room staff. Deposition of Jeff Ennen at 35-36, 38-39; Deposition of Beverly Miller, L.P.N. (“Miller Dep.”), at 11-14. Dr. Stockrahm’s oral contract with the Jail did not require him to provide any other services. Harris Dep. at 34.

William Troy Clark (the “Decedent”) was arrested and placed in the Jail on July 23, 2001. Harris Dep. Ex. B. At the time of his arrest, the Decedent was under the influence of alcohol. *Id.* The Decedent’s Receiving Screening Form noted that he previously had been medically treated for “alcohol/DT’s” [sic]. *Id.* Plaintiff alleges the Decedent refused all food and water, hallucinated and “was literally climbing the walls.” Compl. ¶ 8.

On July 28, 2001, a Jail officer requested that the Jail nurse, Beverly Miller LPN (“Nurse Miller”) see the Decedent because he was “acting strange.” Miller Dep. at 30-31. Nurse Miller talked with the Decedent for twenty to thirty minutes and took his vital signs, which were normal. *Id.* at 46-47, 58, 119. Nurse Miller concluded that the Decedent was experiencing some psychological symptoms, but did not need to be seen by a doctor at that time. *Id.* at 48-49, 119-21. Nurse Miller directed that the Decedent be moved to an observation cell for closer monitoring. *Id.* at 40-41, 60-61. Dr. Stockrahm was not on call at that time, and Nurse Miller did not try to reach Dr. Stockrahm. If Nurse Miller had needed assistance that day, she would have called the local emergency room staff. *Id.* at 12-14, 119, 123-24.

The Decedent died on July 29, 2001. Compl. ¶ 10. Dr. Stockrahm never saw the Decedent, was not aware of his incarceration, and was not asked to be involved in his medical care. Affidavit of Jon L.

Stockrahm, D.O. (“Dr. Stockrahm Aff.”) ¶¶ 5-8. Nobody contacted Dr. Stockrahm regarding the Decedent and Dr. Stockrahm did not refuse to treat or consult regarding the Decedent. Miller Dep. at 119, 122, 126-27, Dr. Stockrahm Aff. ¶¶ 9-10.

Plaintiff alleges Dr. Stockrahm was the “duly-designated jail physician.” Comp. ¶ 6. She further claims that Dr. Stockrahm was “hostilely indifferent to William Troy Clark, by failing to timely review and/or ignoring the responses on his intake form.” *Id.* ¶ 23. Plaintiff alleges that as a result of Dr. Stockrahm’s hostile indifference to the Decedent he “upon determination that William Troy Clark was not eating or taking fluids, . . . failed to take any steps to properly feed, nourish and hydrate William Troy Clark.” *Id.* ¶ 24. Finally, Plaintiff alleges that Dr. Stockrahm’s failure to properly train Jail personnel was a result of Dr. Stockrahm’s “hostile indifference to the medical needs of William Troy Clark.” *Id.* ¶ 27.

II. STANDARD

Summary judgment is granted “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56(c). An issue is genuine only if the evidence is such that a reasonable jury could return a verdict for the opposing party. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A disputed fact is material only if it might affect the outcome of the suit in light of the substantive law. *See id.* The moving party has the initial burden to show the absence of genuine issues of material fact. *See Wollin v. Gondert*, 192 F.3d 616, 620 (7th Cir. 1999); *Schroeder v. Barth, Inc.*, 969 F.2d 421, 423 (7th Cir. 1992). This burden does not entail producing evidence to negate claims on which the opposing party has the burden of proof.

See Green v. Whiteco Indus., Inc., 17 F.3d 199, 201 & n.3 (7th Cir. 1994). The party opposing a summary judgment motion bears an affirmative burden of presenting evidence that a disputed issue of material fact exists. *See Wollin*, 192 F.3d at 621.

When considering a summary judgment motion, a court must draw all reasonable inferences “in the light most favorable” to the opposing party. *Id.* at 621; *Thomas & Betts Corp. v. Panduit Corp.*, 138 F.3d 277, 291 (7th Cir. 1998); *Spraying Sys. Co. v. Delavan, Inc.*, 975 F.2d 387, 392 (7th Cir. 1992). If a reasonable fact finder could find for the opposing party, then summary judgment is inappropriate. *Stop-N-Go of Madison, Inc. v. Uno-Ven Co.*, 184 F.3d 672, 677 (7th Cir. 1999); *Shields Enters., Inc. v. First Chi. Corp.*, 975 F.2d 1290, 1294 (7th Cir. 1992). When the standard embraced in Rule 56(c) is met, summary judgment is mandatory. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322; *Thomas & Betts Corp.*, 138 F.3d at 291; *Shields Enters., Inc.*, 975 F.2d at 1294.

III. DISCUSSION

Plaintiff has not shown the Court any genuine issue of fact that would preclude summary judgment in Dr. Stockrahm’s favor. The undisputed evidence shows that Dr. Stockrahm was not involved in any alleged deprivation of the Decedent’s due process rights.¹ U.S. Code 42, Section 1983 creates liability for any state actor who deprives a person of his privileges or immunities under the United States Constitution. 42 U.S.C. § 1983. A liberty interest protected by the Due Process Clause can arise from the Constitution, statutes, or administrative regulations. *Cameron v. Metcuz*, 705 F. Supp. 454, 462

¹The Due Process Clause, and not Eighth Amendment protection against cruel and unusual punishment, protects the rights of a pretrial detainee. *Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979).

(N.D. Ind. 1989) (internal citations omitted).

The Indiana Administrative Code requires county jails to have “[a] duly licensed physician . . . responsible for medical services” and “[p]rocedures necessary to deliver medical services to inmates . . . in writing and . . . approved by the responsible physician.” 210 I.A.C. § 3-1-11. In her response brief, Plaintiff argues that Dr. Stockrahm should be liable under Section 1983 because he failed to have procedures in place, in writing, and approved by him, to deliver medical services to inmates like the Decedent, as required by the Indiana Administrative Code. Plaintiff’s Response at 12. However, the violation of a state statute or administrative regulation does not create Section 1983 liability “unless the right encompassed in the state statute is guaranteed under the United States Constitution.” *Moore v. Marketplace Rest., Inc.*, 754 F.2d 1336, 1349 (7th Cir. 1985). In *Moore v. Marketplace Restaurant, Inc.*, the Seventh Circuit explained that failure to separate inmates of the opposite sex, by itself, may have been a violation of a state statute, but did not violate the constitution. *Id.* The failure to separate inmates, however, led to abuse of female inmates that could amount to a constitutional deprivation. *Id.* In the present case, any failure by Dr. Stockrahm to fulfill his alleged responsibilities under the Indiana Administrative Code is not a Constitutional violation. The Due Process Clause does not require written procedures in place and approved by a licensed physician, for the delivery of medical services.

However, the Constitution does guarantee inmates will receive medical care that meets “minimal standards of adequacy.” *Wellman v. Faulkner*, 715 F.2d 269, 271 (7th Cir. 1983) (citing *Estelle v. Gamble*, 429 U.S. 97, 104 (1976)). Thus, the Court will interpret Plaintiff’s Section 1983 claim to allege Dr. Stockrahm violated the Decedent’s due process rights when the Decedent did not receive medical care

generally.²

Inherent in Section 1983 liability is that the state actor must have been personally involved in the deprivation of rights. *Craft v. Mann*, 265 F. Supp. 2d 970, 971-72 (N.D. Ind. 2003). Without personal involvement, there lacks a necessary causal link between the defendant's conduct and the plaintiff's injury. *See id.* at 971; *Rubeck v. Sheriff of Wabash County*, 824 F. Supp. 1291, 1299 (N.D. Ind. 1993). Personal involvement giving rise to Section 1983 liability can be direct participation, reckless disregard for Constitutional rights, or knowledge of or consent to a deprivation of rights. *Patrick v. Staples*, 780 F. Supp. 1528, 1538 (N.D. Ind. 1991).

Plaintiff alleges that Dr. Stockrahm personally participated in violating the Decedent's due process rights by his "hostile indifference" to the Decedent's medical condition. Compl. ¶¶ 23-24, 27, 29. It is well established that in the context of inmate³ medical care, a state actor is personally involved if he demonstrates "deliberate indifference" to an inmate's serious medical needs. *See, e.g., Patrick*, 780 F. Supp. at 1539 (citing *Estelle*, 429 US. at 106). The deliberate indifference standard requires a showing that the defendant was "deliberate or reckless in the criminal sense." *Santiago v. Lane*, 894 F.2d 218, (7th Cir. 1990). Plaintiff argues that because Dr. Stockrahm provided medical services to Jail inmates, he should have known of Decedent's medical condition. Plaintiff's Response at 8. Yet, a showing of

²Section 1983 does not impose liability for violations of duties created by tort. *Id.* at 465. Thus, to the extent Plaintiff has argued that Dr. Stockrahm breached his professional duties, or engaged in some other negligence those are not questions before the Court. *See Walker v. Benjamin*, 293 F.3d 1030, 1037 (7th Cir. 2002).

³"The distinction [between pre-trial detainees and post-conviction inmates] is immaterial since the legal standard for a § 1983 claim is the same under either the Cruel and Unusual Punishment Clause of the Eighth Amendment or the Due Process Clause of the Fourteenth Amendment." *Whiting v. Marathon County Sheriff's Dept.*, 382 F.3d 700, 703 (7th Cir. 2004) (citations omitted).

deliberate indifference requires more than that. It is a defendant's subjective mental state that the Court considers, not what he "should have known." See *Rubeck*, 824 F. Supp. at 1297 (citing *Diaz v. Broglin*, 781 F. Supp. 566, 569 (N.D. Ind. 1991)). The Seventh Circuit has determined that deliberate indifference "implies at a minimum actual knowledge of impending harm easily preventable, so that a conscious, culpable refusal to prevent the harm can be inferred from the defendant's failure to prevent it." *Duckworth v. Franzen*, 780 F.2d 645, 655 (7th Cir. 1985). See also *Walker*, 293 F.3d at 1037 (explaining that deliberate indifference includes a subjective element that requires a culpable state of mind).

It is undisputed that Dr. Stockrahm had no knowledge of the Decedent, his incarceration, or his physical or medical condition. Dr. Stockrahm did not refuse to treat the Decedent or refuse to consult regarding his condition. Dr. Stockrahm was not on call the weekend the Decedent passed away. Plaintiff has not produced any evidence that would demonstrate Dr. Stockrahm had actual knowledge of impending harm to the Decedent, or that he made a conscious refusal to prevent such harm. Dr. Stockrahm did not have any personal involvement with the Decedent's alleged deprivation of rights, and as a matter of law cannot be liable on a Section 1983 claim. See *Craft*, 265 F. Supp. 2d at 971-72.

III. CONCLUSION

For the reasons set forth above, Dr. Stockrahm's motion for summary judgment is **GRANTED**.

IT IS SO ORDERED this 19th day of October, 2004.

LARRY J. MCKINNEY, CHIEF JUDGE
United States District Court

Distribution attached.

Distributed electronically to:

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