

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DEMARKUS ADAMS,)	
)	
Plaintiff,)	
)	
v.)	No. 1:23-cv-02160-JPH-TAB
)	
J. JACKSON,)	
M. SOMMERS,)	
T. SOLOMAN,)	
)	
Defendants.)	

ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND GRANTING DEFENDANTS' MOTION TO STRIKE

Plaintiff Demarkus Adams alleges that Defendants violated his Eighth Amendment rights by subjecting him to cruel and unusual conditions of confinement while he was in disciplinary restricted housing at Pendleton Correctional Facility ("Pendleton"). Defendants Johnathan Jackson, Thomas Solomon, and Meghan Sommers have moved for summary judgment. Dkt. 38. For the reasons below, the Court **DENIES** the Defendants' motion for summary judgment, dkt. [38].

I. Procedural History and Consolidation of Cases

Mr. Adams filed his complaint in this case on December 1, 2023. Dkt. 2. On November 26, 2024, this Court granted the Defendants' unopposed motion to consolidate this case with *Adams v. Harris*, Case No. 1:23-cv-2185-MPB-TAB. Dkt. 26. *Adams v. Harris* alleged the same cause of action against Defendant

Johnathan Jackson as well as against Christina Harris, who was *not* named as a Defendant in this case.¹

"[C]onsolidation . . . does not merge suits into a single cause, or change the rights of the parties, or make those who are parties in one suit parties in another." *Hall v. Hall*, 584 U.S. 59, 70 (2018). The Court therefore ordered Mr. Adams to file an amended complaint by December 20, 2024, including all Defendants, claims, and factual allegations that he wished to pursue in this case. Dkt. 26. Mr. Adams did not file an amended complaint by the deadline or move for an extension of time to file an amended complaint. Thus, Ms. Harris has remained a "Consolidated Defendant" in this case for the last year. Ms. Harris did not file a motion for summary judgment or any other dispositive motion after the close of discovery.

While Mr. Adams did not file an amended complaint including Ms. Harris as a defendant, as the Court ordered, the Court did not warn Mr. Adams that his claim against her would be dismissed if he failed to do so. *Id.* And Ms. Harris has not filed a motion to dismiss on that basis. She therefore remains a defendant because the Court's consolidation order does not "change the rights of the parties." *Hall*, 584 U.S. at 70. Ms. Harris has not filed a motion for summary judgment. *See* dkt. 38.

¹ The court in *Adams v. Harris* issued a screening order allowing Eighth Amendment conditions-of-confinement claims to proceed against Johnathan Jackson and Christina Harris. *See* dkt. 12 in that case.

II. Defendants' Motion to Strike Plaintiff's Surreply

After Defendants filed their summary-judgment reply brief, dkt. 48, Mr. Adams filed a surreply, dkt. 49. In response, Defendants filed a motion to strike, arguing that the surreply is improper under Local Rule 56-1(d):

A party opposing a summary judgment motion may file a surreply brief only if the movant cites new evidence in the reply or objects to the admissibility of the evidence cited in the response. The surreply must be filed within 7 days after the movant serves the reply and must be limited to the new evidence and objections.

S.D. Ind. Local Rule 56-1(d).

The Defendants correctly contend that their reply does not attack the admissibility of Mr. Adams's evidence, nor does it cite new evidence. Instead, the reply argues that Mr. Adams's response makes irrelevant arguments related to retaliation, excessive force, and the Defendants' subjective intent. Dkt. 48. The reply also reiterates the motion for summary judgment's argument that Mr. Adams has not satisfied the objective prong of his Eighth Amendment claim. *Id.*

Because the reply did not cite new evidence or object to the admissibility of Mr. Adams's evidence, Mr. Adams's surreply violates Local Rule 56-1(d). Thus, the Court **GRANTS** the Defendants' motion to strike the surreply, dkts. [51]. The **clerk is directed** to strike the surreply at Docket No. [49].

III. Motion for Summary Judgment

A motion for summary judgment asks the Court to find that a trial is unnecessary because there is no genuine dispute as to any material fact and, instead, the movant is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56(a). When reviewing a motion for summary judgment, the Court views the

record and draws all reasonable inferences from it in the light most favorable to the nonmoving party. *Khungar v. Access Cmty. Health Network*, 985 F.3d 565, 572–73 (7th Cir. 2021). It cannot weigh evidence or make credibility determinations on summary judgment because those tasks are left to the factfinder. *Miller v. Gonzalez*, 761 F.3d 822, 827 (7th Cir. 2014). A court only has to consider the materials cited by the parties, *see* Fed. R. Civ. P. 56(c)(3); it need not "scour the record" for evidence that might be relevant. *Grant v. Trs. of Ind. Univ.*, 870 F.3d 562, 573–74 (7th Cir. 2017) (cleaned up).

A party seeking summary judgment must inform the district court of the basis for its motion and identify the record evidence it contends demonstrates the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Whether a party asserts that a fact is undisputed or genuinely disputed, the party must support the asserted fact by citing to particular parts of the record, including depositions, documents, or affidavits. Fed. R. Civ. P. 56(c)(1)(A). Failure to properly support a fact in opposition to a movant's factual assertion can result in the movant's fact being considered undisputed, and potentially in the grant of summary judgment. Fed. R. Civ. P. 56(e).

A. Background

Because Defendants Johnathan Jackson, Thomas Solomon, and Meghan Sommers have moved for summary judgment under Rule 56(a), the Court views and recites the evidence in the light most favorable to Mr. Adams and draws all reasonable inferences in his favor. *Khungar*, 985 F.3d at 572–73. All facts are undisputed unless otherwise noted.

Mr. Adams was incarcerated at Pendleton during the events at issue in this lawsuit. On July 2, 2023, he received a conduct violation for allegedly assaulting a correctional officer. Dkt. 38-2 at 7 (Adams Dep.).² He was then placed in disciplinary restricted housing on "strip-cell status" in G-Cellhouse from July 2 until around July 22. *Id.* at 24; *see* dkt. 38-7. Defendant Johnathan Jackson ("Lt. Jackson") was a lieutenant in G-Cellhouse while Mr. Adams was housed there. *Id.* at 14. Defendant Thomas Solomon was a counselor and Defendant Meghan Sommers ("Ofc. Sommers") was a correctional officer in G-Cellhouse during this time. *Id.* at 8, 16–17.

Pendleton's policies provide that inmates on strip-cell status shall be given a mattress, bedding, two pairs of underwear and socks, two t-shirts, shower shoes, flex pen and paper, toilet paper, and a one-ounce bar of soap. Dkt. 38-4 (Strip Cell Status Procedures). Officers are supposed to replace the inmate's regular toothbrush with a small toothbrush and toothpaste as well. Dkt. 38-2 at 10.

When Mr. Adams began strip-cell status on July 2, he had the underwear, T-shirt, and socks that he was already wearing, bed sheets, and shower shoes. *Id.* at 12. He did not receive toilet paper, soap, a spoon, a bed cover, or a small toothbrush with toothpaste. *Id.* at 12–13. Also, the cell had blood and human feces on the walls and "everywhere." *Id.* at 13, 20. The person occupying the cell before Mr. Adams had cut himself and smeared blood on the walls. Dkt. 46-1 ¶¶ 5–6 (Schwartz Aff.). In the days that followed, Mr. Adams requested soap and

² Citations are to the page number on the pdf file.

hygiene items as well as cleaning supplies, but the defendants ignored him or told him that he should not have hit an officer. *See id.* 14–20, 21–22.

Mr. Adams took a shower every three days, where he was able to use the all-in-one soap. *Id.* at 20. He took some of the soap back to wipe the walls of his cell. *Id.* Mr. Adams finally received soap and a small toothbrush around July 17 or 18. *Id.* at 17, 22. He had a laundry bag, and he was able to launder his clothes once, around July 21 or 22. *Id.* at 24.

Mr. Adams got a stomach virus and diarrhea. *Id.* at 25. He submitted a request for healthcare form on July 11 and was seen on July 18. *Id.* at 29.

B. Discussion

Under the Eighth Amendment, "prisoners cannot be confined in inhumane conditions." *Thomas v. Blackard*, 2 F.4th 716, 720 (7th Cir. 2021) (citing *Farmer v. Brennan*, 511 U.S. 825, 832 (1994)). An Eighth Amendment conditions-of-confinement claim includes both an objective and subjective component. *Giles v. Godinez*, 914 F.3d 1040, 1051 (7th Cir. 2019). Under the objective component, a prisoner must show that the conditions were objectively serious and created "an excessive risk to his health and safety." *Id.* Conditions of confinement count as objectively serious when they deny a prisoner "the minimal civilized measure of life's necessities." *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981). Under the subjective component, a prisoner must establish that the defendants had a culpable state of mind — that they "were subjectively aware of these conditions and refused to take steps to correct them, showing deliberate indifference." *Thomas*, 2 F.4th at 720.

Defendants argue that Mr. Adams cannot satisfy the objective component of the Eighth Amendment standard. Dkt. 40 at 5. This is because Mr. Adams was deprived of hygiene items for only around fourteen days and during that time, he was able to take showers with soap every three days. *Id.* at 6. The designated evidence, however, is that Mr. Adams did not have soap in his cell, or a toothbrush and toothpaste, or toilet paper, or cleaning supplies, or a change of clothes for about fourteen days. He had a laundry bag, but laundry pickup happened only once around July 21. Dkt. 38-2 at 24. The cell was also covered in feces and blood from the previous occupant.

Courts consider conditions of confinement collectively, as "[s]ome conditions of confinement may establish an Eighth Amendment violation in combination when each alone would not do so." *Gillis v. Litscher*, 468 F.3d 488, 493 (7th Cir. 2006); *Gray v. Hardy*, 826 F.3d 1000, 1005 (7th Cir. 2016). Even though Mr. Adams could take showers every three days, he still had to remain in a feces and blood covered cell for around fourteen days. During this time, he also had to eat with his hands after using the bathroom without toilet paper and soap. The Seventh Circuit has long recognized that "continued exposure to human excrement can violate the Eighth Amendment." *Hardeman v. Curry*, 933 F.3d 816, 821 (7th Cir. 2019); *Gills v. Hamilton*, 164 F.4th 640, 646 (7th Cir. 2026) ("Make no mistake, though: forcing a prisoner to live in egregiously unsanitary conditions satisfies the objective prong of the deliberate indifference test"); *Thomas*, 2 F.4th at 720 ("Thomas's assertions of feces-covered walls, a lack of hot water, hundreds of dead flies in his bed, and a mattress covered in

human waste no doubt establish a material dispute on the objective prong of an Eighth Amendment claim.").

The combination of factors also distinguishes the cases that Defendants rely on. For example, in *Smith v. Reagle*, 2023 WL 2562274 at *3 (S.D. Ind. Mar. 17, 2023), the plaintiff was deprived of soap, but his cell was not dirty or covered in blood and feces. The plaintiff also had access to laundry two times per week and there is no record that he was deprived of a toothbrush or toilet paper. *Id.* In *Jones v. Anderson*, 116 F.4th 669, 679 (7th Cir. 2024), the plaintiff went 28 hours without hygiene items in a cell that had "dust bunnies," not blood and feces.

Defendants also argue that the conditions were not objectively serious because Mr. Adams did not suffer any serious injuries—he testified only to having a stomach virus and diarrhea. "To prove the objective component of the claim, a prisoner must show that the conditions were sufficiently serious as an objective matter and created an excessive risk to his health and safety." *Id.*; *Henderson v. Sheahan*, 196 F.3d 839, 846–47 (7th Cir. 1999); *see also Byrd v. Hobart*, 761 F. App'x 621, 623 (7th Cir. 2019) (reversing and remanding district court's grant of summary judgment for defendants because pest infestation presented unreasonable risk of serious damage to plaintiff's health). Indeed, the Seventh Circuit has held that blood and feces on a cell's walls for just three days poses an objective serious condition of confinement. *Vinning–El v. Long*, 482 F.3d 923, 924 (7th Cir. 2007).

In sum, a reasonable jury could conclude that Mr. Adams faced objectively serious conditions of confinement that created an excessive risk to his health and safety. Defendants make no other argument in support of summary judgment. *See* dkt. 40. Therefore, the Defendants' motion for summary judgment is **DENIED**.

IV. Conclusion

The Court **GRANTS** the Defendants' motion to strike the surreply, dkt. [51]. The **clerk is directed** to strike the surreply at Docket No. [49].

Defendants' motion for summary judgment is **DENIED**. Dkt. [38]. Mr. Adams's Eighth Amendment claims against Lt. Jackson, Mr. Solomon, and Ofc. Sommers will have to be resolved through settlement or trial.

The Court prefers that Mr. Adams be represented by counsel for the remainder of this action. The **clerk is directed** to send Mr. Adams a motion for assistance recruiting counsel with his copy of this Order. Mr. Adams has **30 days**, to file a motion for counsel using this form motion or to inform the Court that he wishes to proceed pro se. Once the motion has been ruled on and counsel has been recruited, the Magistrate Judge is asked to schedule a telephonic status conference to discuss the claims against Ms. Harris and all further proceedings.

SO ORDERED.

Date: 3/12/2026



James Patrick Hanlon
United States District Judge
Southern District of Indiana

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