UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JACK EDWARDS, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:22-cv-01708-RLY-MKK
	)	
JOHN NWANNUNU, *et al.*,	)	
	)	
Defendants.	)	

ORDER ON DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

This lawsuit is based on Jack Edwards' allegations that he has suffered deliberate indifference to serious knee and hand injuries while incarcerated at New Castle Correctional Facility (NCCF) since 2020. All five defendants have moved for summary judgment. For the reasons discussed below, Defendants Wexford of Indiana, LLC, and Grievance Specialist Hannah Winningham are entitled to summary judgment; claims against Health Services Administrator Rachel Schilling are withdrawn; and claims against Dr. John Nwannunu and Centurion Health of Indiana, LLC, survive and will be resolved by settlement or trial.

I. Summary Judgment Standard

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 fact-finder. *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 Indiana Univ.*, 870 F.3d 562, 573−74 (7th Cir. 2017) (cleaned up).

"[A] party seeking summary judgment always bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of 'the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,' which it believes demonstrate the absence of a genuine issue of material fact." *Celotex Corp. v. Catrett,* 477 U.S. 317, 323 (1986). "[T]he burden on the moving party may be discharged by 'showing'—that is, pointing out to the district court—that there is an absence of evidence to support the nonmoving party's case." *Id*. at 325.

Whether a party asserts that a fact is undisputed or genuinely disputed, the party must support the asserted fact by citing 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).

II. Facts

Mr. Edwards arrived at NCCF in December 2020 from Wabash Valley Correctional Facility (WVCF). Dkt. 82-6 at 2–3, 5:24–6:6. He injured his knee playing basketball at WVCF in 2018. *Id.* at 6, 20:8–14. No party has designated as evidence any records of Mr. Edwards' medical care at WVCF.

Mr. Edwards visited Dr. John Nwannunu at NCCF on December 29, 2020. Dkt. 82-7 at 4–6. Dr. Nwannunu was then employed by Wexford of Indiana, LLC, which contracted to provide medical care to NCCF inmates. Dkt. 82-1 at ¶ 3. Dr. Nwannunu documented Mr. Edwards'

complaints that he was experiencing increasing weakness in his knee while climbing stairs or walking briskly. Dkt. 82-7 at 4–6. Dr. Nwannunu referred Mr. Edwards for assessment by a physical therapist. *Id.* at 1–3.

Dr. Adonai Mukona examined Mr. Edwards on January 11, 2021. Dkt. 82-7 at 7–16. Dr. Mukona found evidence of muscle atrophy and imbalance and that Mr. Edwards was experiencing pain and other symptoms from compensating for those injuries. *Id.* He recommended that Mr. Edwards complete four weeks of physical therapy. *Id.*

Mr. Edwards did not receive four weeks of physical therapy. Rather, he had his final appointment with Dr. Mukona on January 25, 2021. Dkt. 82-7 at 21–23. Dr. Mukona documented that Mr. Edwards had benefitted from arch supports and recommended that he continue performing leg-strengthening exercises and wear a stabilizing knee brace. *Id.* Mr. Edwards completed his exercises as directed. Dkt. 82-6 at 7–8, 25:25–26:4.

Mr. Edwards met with Dr. Nwannunu on March 18, 2021. Dkt. 82-7 at 24–26. Dr. Nwannunu noted that he would order a brace for Mr. Edwards' knee and that he recommended Mr. Edwards purchase ibuprofen from the commissary to treat further knee pain. *Id.* Mr. Edwards did not receive the knee brace before June 2021. Dkt. 87-3.

Dr. Nwannunu saw Mr. Edwards again on March 30. Dkt. 82-7 at 27–29. Notes from this encounter do not indicate that any further treatment was provided.

Mr. Edwards submitted a grievance on May 12, 2021, stating that he had not received adequate treatment for his knee injury. Dkt. 87-3. On June 4, Grievance Specialist Hannah Winningham relayed a response from the health services administrator that Mr. Edwards received physical therapy and was due to receive a knee brace.

Mr. Edwards fell in May 2021 when his knee gave out, and he injured his hand trying to catch himself. Dr. Nwannunu saw Mr. Edwards on May 19, about a week after the fall. Dkt. 82-7 at 34–37. Dr. Nwannunu splinted and wrapped Mr. Edwards' hand, ordered x-rays, and referred him for examination by an orthopedist. *Id.* Nurse Erica Jones re-wrapped the hand the following day. *Id.* at 36–37.

Mr. Edwards visited an orthopedist on June 30, 2021. Dkt. 82-7 at 38. The orthopedist confirmed that Mr. Edwards' hand was broken, prescribed occupational therapy and continued splinting, and asked for a follow-up appointment in six weeks. *Id.*

No party has designated additional medical records concerning Mr. Edwards' medical care since June 30, 2021. Mr. Edwards has received no significant care for his knee or hand injuries since then. Dkt. 82-6 at 7, 19:5–10. He experiences constant pain and a deformity in his hand, *id.* at 9, 31:17–32:13, and his knee pops out of place and causes him to fall, *id.* at 5, 15:22–16:6.

In May, June, and September of 2021, Mr. Edwards submitted letters to Ms. Winningham stating that she failed to respond to grievances he submitted regarding medical care. Dkt. 46-1 at 44–46; dkt. 97 at 20–22 (citing exhaustion summary judgment record). These letters refer only generally—if at all—to Mr. Edwards' chronic injuries and do not provide specific information about his symptoms or what care was needed.

III. Preliminary Motions

When the court screened Mr. Edwards' complaint pursuant to 28 U.S.C. § 1915A, it found plausible Eighth Amendment claims against five defendants: Dr. Nwannunu, Health Services Administrator Rachel Schilling, Ms. Winningham, Wexford, and Wexford's successor as the IDOC's contracted medical care provider, Centurion Health of Indiana. All five moved for

summary judgment. Before confronting the merits of those motions, the court resolves three preliminary motions.

First, Mr. Edwards' motion to dismiss claims against Ms. Schilling, dkt. [104], is **granted**. Claims against Ms. Schilling are **dismissed with prejudice**.

Second, Centurion's motion to join the Wexford defendants' summary judgment motion, dkt. [84], is **granted**. As discussed in Part IV(D) below, the court has considered whether Centurion is entitled to summary judgment.

Third, the Wexford defendants' motion to strike Mr. Edwards' surreply, dkt. [105], is **granted**. "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." S.D. Ind. L.R. 56-1(d). Mr. Edwards' surreply does not cite newly raised evidence or respond to arguments over the admissibility of his evidence and therefore is not permitted by the Local Rule. The **clerk is directed** to **strike** Mr. Edwards' surreply, dkt. [103].

IV. Analysis

The Eighth Amendment imposes a duty on the states, through the Fourteenth Amendment, "to provide adequate medical care to incarcerated individuals." *Boyce v. Moore*, 314 F.3d 884, 889 (7th Cir. 2002) (citing *Estelle v. Gamble*, 429 U.S. 97, 103 (1976)). "Prison officials can be liable for violating the Eighth Amendment when they display deliberate indifference towards an objectively serious medical need." *Thomas v. Blackard*, 2 F.4th 716, 721–22 (7th Cir. 2021). "Thus, to prevail on a deliberate indifference claim, a plaintiff must show '(1) an objectively serious medical condition to which (2) a state official was deliberately, that is subjectively, indifferent.'" *Johnson v. Dominguez*, 5 F.4th 818, 824 (7th Cir. 2021) (quoting *Whiting v. Wexford Health Sources, Inc.*, 839 F.3d 658, 662 (7th Cir. 2016)).

"A medical condition is serious if it 'has been diagnosed by a physician as mandating treatment' or 'is so obvious that even a lay person would perceive the need for a doctor's attention.'" *Perry v. Sims*, 990 F.3d 505, 511 (7th Cir. 2021) (quoting *Greeno v. Daley*, 414 F.3d 645, 653 (7th Cir. 2005)). Deliberate indifference requires a finding that the defendants "consciously disregarded a serious risk to [Mr. Edwards'] health." *Dean v. Wexford Health Sources, Inc*., 18 F.4th 214, 241 (7th Cir. 2021) (cleaned up). Deliberate indifference requires more than negligence or even objective recklessness. *Id*. Rather, the plaintiff must offer evidence that the defendants "actually knew of and disregarded a substantial risk of harm." *Petties v. Carter*, 836 F.3d 722, 728 (7th Cir. 2016).

The Seventh Circuit has held that deliberate indifference occurs when the defendant:

- renders a treatment decision that departs so substantially "'from accepted professional judgment, practice, or standards as to demonstrate that'" it is not based on judgment at all. *Petties*, 836 F.3d at 729 (quoting *Cole v. Fromm*, 94 F.3d 254, 260 (7th Cir. 1996)).
- refuses "to take instructions from a specialist." *Id.*
- persists "in a course of treatment known to be ineffective." *Id.* at 729–30.
- chooses "an 'easier and less efficacious treatment' without exercising professional judgment." *Id.* at 730 (quoting *Estelle*, 429 U.S. at 104 n.10).
- effects "an inexplicable delay in treatment which serves no penological interest." *Id.*

The defendants each seek summary judgment, arguing that no evidence would allow a reasonable trier of fact to determine that they were deliberately indifferent to a serious risk of harm. Mr. Edwards agrees that claims against Ms. Schilling should be dismissed. Dkt. 104. Because each

other defendant can be liable only for his or her own acts or omissions,[1] the court addresses their motions individually.

A. Dr. Nwannunu

Dr. Nwannunu seeks summary judgment on grounds that he provided appropriate medical care to Mr. Edwards between December 2020 and May 2021. But this argument is at best incomplete. The evidentiary record ends abruptly with the expiration of Wexford's contract on June 30, 2021. But the record does not indicate that Dr. Nwannunu's employment at NCCF or his responsibility for Mr. Edwards' medical care ended on the same date. Further, the record indicates that Mr. Edward's chronic knee condition persisted and that he also continues to experience pain and deformity in his hand. At minimum, the record allows a finding that Dr. Nwannunu saw Mr. Edwards in May 2021 after his knee gave out and caused him to fall and break his hand but never provided any more care for Mr. Edwards' knee injury. In short, Dr. Nwannunu has not carried his burden of demonstrating that the undisputed evidence would not allow a reasonable trier of fact to find him deliberately indifferent to Mr. Edwards' serious medical needs.

B. Ms. Winningham

Ms. Winningham seeks summary judgment on grounds that her alleged wrongdoing—failing to respond adequately to grievances—did not constitute deliberate indifference to Mr. Edwards' serious medical needs. Mr. Edwards responds that, "once an official is alerted to an excessive risk to inmate safety or health through a prisoner's correspondence, refusal or declination to exercise the authority of his or her office may reflect deliberate disregard." *Perez v. Fenoglio*,

[1] "Liability under [42 U.S.C.] § 1983 is direct rather than vicarious; supervisors are responsible for their 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 (7th Cir. 2018). "[I]ndividual liability under § 1983 . . . requires personal involvement in the alleged constitutional deprivation." *Colbert v. City of Chicago*, 851 F.3d 649, 657 (7th Cir. 2017) (internal quotation omitted).

792 F.3d 768, 782 (7th Cir. 2015) (internal quotation omitted); dkt. 97 at 21 (citing *Perez*). But the documents Mr. Edwards cites do not demonstrate that Ms. Winningham refused or declined to exercise the authority of her office after being notified of an excessive risk to his health or safety. Rather, she received one grievance and exercised the authority of her office by conferring with the health services administrator. She also failed to respond to Mr. Edwards' letters, but they primarily took issue with her treatment of grievances and only generically described a chronic knee injury. Those letters alone are not evidence that Ms. Winningham knew of an excessive risk of harm. Accordingly, she is entitled to summary judgment.

C. Wexford

Wexford seeks summary judgment on Mr. Edwards' claims under *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978), that a Wexford policy or practice caused a violation of his constitutional rights. "The central question" under *Monell* "is always whether an official policy, however expressed . . . , caused the constitutional deprivation." *Glisson v. Indiana Dep't of Corr.*, 849 F.3d 372,379 (7th Cir. 2017 (*en banc*). Put otherwise, "is the action about which the plaintiff is complaining one of the institution itself, or is it merely one undertaken by a subordinate actor?" *Id.* at 381.

Mr. Edwards cites other decisions of this court finding evidence that Wexford maintained a policy of denying essential patient care to minimize costs. Dkt. 97 at 18–19. He argues that, coupled with the fact that he was never referred to an off-site specialist for treatment of his knee injury, these decisions would allow a jury to resolve a *Monell* claim in his favor. But Wexford correctly argues that no evidence supports a finding that its policies or practices directly caused Mr. Edwards to suffer deliberate indifference. Dkt. 11 at 5.

The "policy or practice must be the 'direct cause' or 'moving force' behind the constitutional violation." *Minix v. Canarecci*, 597 F.3d 824, 832 (7th Cir. 2010). Mr. Edwards has presented evidence from which a jury could find that he was not provided optimal care for his knee and hand injuries and perhaps even that Dr. Nwannunu was deliberately indifferent to his serious medical needs. However, he has not presented any evidence from which a jury could reasonably conclude that Dr. Nwannunu or any other medical professional withheld appropriate care as a direct result of a Wexford policy prioritizing cost-savings. Wexford is entitled to summary judgment.

D. Centurion

Centurion seeks summary judgment only on the basis that Mr. Edwards has no viable Eighth Amendment claim against any other defendant that can survive summary judgment. Dkt. 84 at ¶ 6.[2] However, claims against Dr. Nwannunu survive for the reasons noted in Part IV(A) above. Accordingly, Centurion is not entitled to summary judgment.

V. Conclusion and Further Proceedings

Mr. Edwards' motion to dismiss claims against Ms. Schilling, dkt. [104], is **granted**. Claims against Ms. Schilling are **dismissed with prejudice**.

Centurion's motion to join the Wexford defendants' summary judgment motion, dkt. [84], is **granted** to the extent that the court has considered whether Centurion is entitled to summary judgment.

The Wexford defendants' motion to strike Mr. Edwards' surreply, dkt. [105], is **granted**. The **clerk is directed** to **strike** Mr. Edwards' surreply, dkt. [103].

[2] Centurion recognizes that Mr. Edwards has not alleged a *Monell* claim against it and that the claims proceeding against are for injunctive relief only.

The Wexford defendants' motion for summary judgment, dkt. [80], is **granted** as to Wexford, **moot** as to Ms. Schilling, and **denied** as to Dr. Nwannunu and as joined by Centurion. Ms. Winningham's motion for summary judgment, dkt. [85], is **granted**.

The **clerk is directed** to **terminate** Wexford, Ms. Schilling, and Ms. Winningham as defendants on the docket. No partial final judgment will issue.

Claims against Centurion and Dr. Nwannunu will be resolved by settlement or trial. The **clerk is directed** to include form motions for assistance with recruiting counsel and for leave to proceed *in forma pauperis* with Mr. Edwards' copy of this order. If Mr. Edwards wishes for the court to recruit counsel to represent him through a settlement conference and trial, he must return and complete both forms **by March 24, 2025**. Although Mr. Edwards prepaid the filing fee, he may use the *in forma pauperis* form to demonstrate that he is financially eligible for the appointment of counsel under 28 U.S.C. § 1915(e). He must include a certified statement of his current inmate trust account balance.

IT IS SO ORDERED.

Date: 2/24/2025

RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

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