

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

MARK ALLEN POWERS,)	
)	
Plaintiff,)	
)	
v.)	No. 3:23-cv-00153-RLY-CSW
)	
STEPHANIE RILEY,)	
)	
Defendant.)	

ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Plaintiff Mark Powers, who is incarcerated at Branchville Correctional Facility, alleges in this lawsuit that defendant Stephannie Riley exhibited deliberated indifference to his serious medical needs in violation of his Eighth Amendment rights when she reduced his pain medication. Dr. Riley has moved for summary judgment on Mr. Powers' claim. Because there are disputes of fact regarding whether Dr. Riley exercised her medical judgment in addressing Mr. Powers' pain, the motion for summary judgment is **DENIED**.

**I.
Standard of Review**

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 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).

II. Factual Background

Because Dr. Riley has moved for summary judgment under Rule 56(a), the court views and recites the evidence in the light most favorable to Mr. Powers as the non-moving party and draws all reasonable inferences in that party's favor. *Khungar*, 985 F.3d at 572–73.

A. The Parties

Mr. Powers is incarcerated at the Branchville Correctional Facility. ("BCF"). Dkt. 14 at 3.

The parties agree that Dr. Stephanie Riley is the statewide medical director for Centurion Health Services. In this role she consults on the healthcare and treatment of individuals who are incarcerated by the Indiana Department of Correction. Dr. Riley has never personally seen Mr. Powers but has been asked to consult on his conditions and medications.¹

¹ Dr. Riley has not sufficiently supported the facts in this paragraph as required by the summary judgment standard, instead citing generally to 442 pages of medical records. Nonetheless, because Mr. Powers does not dispute these facts, the court will consider them as background information on Mr. Powers' claims for purposes of summary judgment.

B. Mr. Powers' Medical Care

Mr. Powers suffers from Restless Leg Syndrome ("RLS"),² which has caused him leg pain. *See* dkt. 42-1 at 126-28. From October of 2019 until June of 2023, when Dr. Riley reduced his dose, he was taking 3 mg per day of Pramipexole for this condition. Dkt. 49 at 2 (Powers Aff.). For treatment of Parkinson's Disease the recommended dosage of Pramipexole should not exceed 4.5 mg per day. Dkt. 42-2 (Mayo Clinic article on Pramipexole).³ For treatment of RLS the recommended dosage should not exceed 0.5 mg per day. *Id.*

On about June 8, 2023,⁴ Dr. Riley reduced his dosage of 3.0 mg of Pramipexole per day to 0.5 mg per day. Dkt. 42-1 at 310 (Medical Records). A few weeks after Dr. Riley reduced Mr. Powers' medication, he had an appointment with Nurse Practitioner ("NP") Christina Nudi. Dkt. 42-1 at 126-28. He reported trouble sleeping at night and that the current dose of his medication was not relieving his restless leg pain. *Id.* There is no record of any change in his medication at that time. On September 11, 2023, Mr. Powers saw NP Sara Gatwood, who noted that he was complaining of worsening symptoms and trouble sleeping and noted that she planned to obtain a neurological consultation "due to possible differential diagnosis of Parkinson's disease." *Id.* at 111-13.

Mr. Powers saw NP Gatwood again in early November, noting that he described his pain as "throughout whole legs [with] numbness and tingling." *Id.* at 60-63. She went on to note "Ran

² Mr. Powers alleges in his complaint that he was taking a Parkinson's medication, but the parties agree that he suffers from RLS.

³ Dr. Riley asks the court to take judicial notice under Rule 201 of the Federal Rules of Evidence of the Mayo Clinic website as a highly reputable source. Mr. Powers does not appear to dispute that this medication is generally prescribed at different doses for Parkinson's and RLS. Therefore, the court will assume this is true only for purposes of the summary judgment motion.

⁴ Dr. Riley asserts in the motion for summary judgment that this was a routine review, but the evidence cited for this proposition is merely a medication administration record. Dkt. 42-1 at 310. There is nothing in that document that supports an inference regarding why Dr. Riley reduced the medication.

case by Dr. Riley and discussed that nortriptyline can cause some parkinsonian like symptoms which patient demonstrates. He has some shuffling and mumbled talking as well as tremors in hands. We discussed weaning off of nortriptyline and starting Trileptal for pain." *Id.* at 60-63.

Mr. Powers saw NP Gatwood again on December 28, where she noted that he had been weaned off of nortriptyline because leg pain, burning, and weakness was a possible side effect of that medication. *Id.* at 28-33. He was approved for an off-site neurology consultation. *See id.* at 32.

On January 30, 2024, Mr. Powers had a nurse sick call visit for nasal congestion issues. *Id.* at 14-17. The nurse also noted that he was taking 1 mg per day of Pramipexole instead of the prescribed .5 mgs per day. *Id.* at 14-17. Therefore, he was running out of his medication before it could be refilled. *Id.*

Mr. Powers saw NP Gatwood on February 15, to talk about his Pramipexole. *Id.* at 3-6. She noted that he was taking more than one at night and that the higher dose he requested is not approved for treatment of RLS. *Id.* She also noted that he had been approved for a neurology appointment, which was scheduled for the end of March. *Id.* He described his legs as being on fire with numbness and tingling. *Id.* She offered to take him off of Pramipexole and substitute it with Requip, but he refused. *Id.*

Mr. Powers saw Dr. Sarah Mace for a neurology consultation at Eskenazi Health on March 28, 2024. *Id.* at 339-42. At the consultation, Mr. Powers discussed the reduction of his Pramipexole to .5 mg and his continued pain. *Id.* Dr. Mace noted that his symptoms may be "related to his suboptimally treated RLS, but alternate causes are also possible." *Id.* She recommended iron studies and starting gabapentin and specifically noted "He can continue the pramipexole for now

as it is likely providing at least some benefit. Would caution increasing this dose due to augmentation risk." *Id.*

In May of 2024, Mr. Powers' Pramipexole was stopped and that medication was replaced with Requip to see if that helped improve his RLS symptoms. *Id.* at 355-59. The parties dispute whether the Requip helped Mr. Powers' pain. NP Gatwood noted at an August 7 visit that Mr. Powers reported that the Requip was helping but wore off. *Id.* at 387-81. Mr. Powers states on the other hand, that only the Pramipexole helped. Dkt. 48 at 10. A FER⁵ was submitted for an increase in his Requip dosage. Dkt. 42-1 at 378-81. The dosage increase was approved on August 8, 2024, and the Requip was increased from 1 mg per day to 2 mg per day. *Id.* As of October 8, 2024, Mr. Powers remained on Requip 2 mgs and is no longer taking Pramipexole. *Id.* at 387-88.

III. Discussion

Mr. Powers alleges that Dr. Riley was deliberately indifferent to his serious medical needs when she reduced his Pramipexole prescription.

The Eighth Amendment's prohibition against cruel and unusual punishment 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

⁵ The court understands this to refer to a Formulary Exception Request, or a request for medication not otherwise available.

818, 824 (7th Cir. 2021) (quoting *Whiting v. Wexford Health Sources, Inc.*, 839 F.3d 658, 662 (7th Cir. 2016)).

The court assumes for purposes of the summary judgment motion that Mr. Powers' RLS pain was objectively serious. To avoid summary judgment, then, the record must allow a reasonable jury to conclude that Dr. Riley acted with deliberate indifference—that is, that she "consciously disregarded a serious risk to [Mr. Powers]'s 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, Mr. Powers "must provide evidence that an official actually knew of and disregarded a substantial risk of harm." *Petties v. Carter*, 836 F.3d 722, 728 (7th Cir. 2016). "Of course, medical professionals rarely admit that they deliberately opted against the best course of treatment. So in many cases, deliberate indifference must be inferred from the propriety of their actions." *Dean*, 18 F.4th at 241 (internal citations omitted). Among other things, 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)).

Dr. Riley argues that she is entitled to summary judgment on Mr. Powers' deliberate indifference claim because she simply reduced his Pramipexole prescription to the proper dosage for RLS. But, on the designated evidence, a reasonable jury could find otherwise. First, there is no evidence regarding when, why, or how Dr. Riley came to review Mr. Powers' medical records in June of 2023,⁶ when she first reduced his dosage. Further, even if it is true that she reduced the

⁶ As explained in Part II. above, Dr. Riley contends that she reduced the medication on a routine review of the medical records, but she does not designate evidence that supports this proposition.

medication when she performed a routine review of the records, without any testimony as to her state of mind, this still is not enough evidence to allow a reasonable jury to conclude that she exercised medical judgment in doing so. Dr. Riley has presented no testimony regarding how she decided to reduce his medication without consulting with or examining him. And she designated no evidence that she otherwise considered the fact that, although Mr. Powers did not have Parkinson's, other providers had prescribed 3 mg of Pramipexole, and, without it, he experienced significant leg pain. Nor has she designated evidence that, when she reduced that medication, she considered or prescribed replacement treatment for Mr. Powers at that time. Without such evidence, a reasonable jury could conclude that she did not exercise medical judgment.⁷ Indeed, the designated evidence reflects that Mr. Powers continued complaining of pain for months after Dr. Riley reduced his medication. And, although the outside neurologist who evaluated Mr. Powers' treatment agreed with the reduction of the Pramipexole, she did note that Mr. Powers' RLS had been "suboptimally treated." Dkt. 42-1 at 341.

A reasonable jury considering all of these facts could conclude that Dr. Riley was deliberately indifferent to Mr. Powers' pain. She is therefore not entitled to summary judgment.

IV. Conclusion


Dr. Riley's motion for summary judgment, dkt. [41], is **denied**.

⁷ It is fundamental that the movant bears the burden of proof on a motion for summary judgment. The movant "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) (quoting Fed. R. Civ. P. 56(c)(1)). "[A]n unsupported—or 'naked'—motion for summary judgment does not require the nonmovant to come forward with evidence to support each and every element of its claims." *Logan v. Com. Union Ins. Co.*, 96 F.3d 971, 979 (7th Cir. 1996).

The court prefers that Mr. Powers be represented by counsel for the remainder of this action. The **clerk is directed** to send Mr. Powers a motion for assistance recruiting counsel with his copy of this Order. Mr. Powers has **through September 9, 2025**, 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 further proceedings.

IT IS SO ORDERED.

Date: 8/13/2025


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

Distribution:

MARK ALLEN POWERS
220306
BRANCHVILLE - CF
BRANCHVILLE CORRECTIONAL FACILITY
Electronic Service Participant – Court Only

Laura K. Binford
RILEY BENNETT EGLOFF LLP
lbinford@rbelaw.com

Meghan Caroline Grimes
Riley Bennett Egloff LLP
mgrimes@rbelaw.com