UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

THOMAS SNOW,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 2:22-cv-00573-JPH-MJD
	)	
SARA BEDWELL, et al.,	)	
	)	
Defendants.	)	

ORDER ON PENDING SUMMARY JUDGMENT MOTIONS

Thomas Snow, who is incarcerated at Wabash Valley Correctional Facility ("WVCF"), alleges that he was denied medical care for serious abdominal pain and gastrointestinal symptoms and that correctional officers used excessive force against him when removing him from a medical appointment. He sues Centurion Health of Indiana, Dr. Samuel Byrd, Nurse Kelly Gilbert, Nurse Barbara Riggs, and Health Services Administrator Sara Bedwell ("the Medical Defendants") and Grievance Officer Shelby Crichfield, Warden Frank Vanihel, Deputy Warden Kevin Gilmore, and Sergeants Donald Harlan, Andrew Chambers, and Steven Donaldson (the "State Defendants"). Mr. Snow and the defendants have moved for summary judgment. For the reasons below the Medical Defendants' motion for summary augment is **GRANTED IN PART AND DENIED IN PART**, the State Defendants' motion for summary judgment is **GRANTED IN PART AND DENIED IN PART**, and Mr. Snow's motion for summary judgment is **DENIED**.

I.
Motion for Evidence

Mr. Snow has filed a motion for evidence stating that he "has come across evidence provided in discovery" that he contends was "tampered with." Dkt. 143 at 1. Specifically, Mr. Snow states that a shift log created by correctional officers on one of the days at issue in this case contains entries that state only the time of an event, but not a description of that event, as is required in shift logs. Because the required description does not appear on the log he received, Mr. Snow concludes that someone must have tampered with the original and redacted the description that he presumes was once there. Mr. Snow asks the Court to order the production of the original of this document or testimony from the officer who created the log that the log is accurate.

Mr. Snow's motion for evidence was filed well beyond the discovery deadline of December 13, 2024, dkt. 93, and there is no indication that the production of this material to him was delayed. To re-open discovery, Rule 16 requires the party to establish "good cause" for doing so. Fed. R. Civ. P. 16(b)(4). The primary consideration in making a Rule 16(b) good-cause determination is diligence. *Alioto v. Town of Lisbon*, 651 F.3d 715, 720 (7th Cir. 2011). Because Mr. Snow has not shown diligence in seeking additional

discovery regarding these materials, his motion for evidence, dkt. [143], is too late and therefore **denied**.

II.
Summary Judgment 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).

When reviewing cross-motions for summary judgment, all reasonable inferences are drawn in favor of the party against whom the motion at issue was made. *Valenti v. Lawson*, 889 F.3d 427, 429 (7th Cir. 2018) (citing *Tripp v. Scholz*, 872 F.3d 857, 862 (7th Cir. 2017)). The existence of cross-motions for summary judgment does not imply that there are no genuine issues of material fact. *R.J. Corman Derailment Servs., LLC v. Int'l Union of Operating Engineers, Loc. Union 150, AFL-CIO*, 335 F.3d 643, 647 (7th Cir. 2003).

III.
Factual Background

A. The Parties

Mr. Snow has been incarcerated at WVCF since at least March 5, 2018. Dkt. 133-8 at 11 (Snow Dep.).[1]

Centurian is a private company contracted by the State of Indiana to provide health care services to inmates at WVCF. Dkt. 134 at 23.

Dr. Samuel Byrd has worked as a doctor at WVCF since 2018. Dkt. 133-9 ¶ 2 (Byrd Aff.). During the relevant time, Barabara Riggs and Kelly Gilbert were nurses at WVCF. Dkt. 133-10 ¶ 2 (Riggs Aff.); dkt. 133-12 ¶ 2 (Gilbert Aff.). Sara Bedwell is the Health Services Administrator ("HSA"). Dkt. 133-11 ¶ 2 (Bedwell

[1] Citations to Mr. Snow's deposition are to the page number of the pdf document filed in the Court's electronic filing system rather than the page number of the deposition transcript.

Aff.). As HSA, she does not decide what is or is not a medical emergency; these decisions are outside the scope of her training. *Id.* ¶ 10.

Frank Vanihel is the Warden at WVCF. Dkt. 121-1 at 227. Kevin Gilmore was the Deputy Warden of Re-entry. *Id.* at 233. Shelby Crichfield was the grievance specialist during the relevant time. Dkt. 76 at 3. Donald Harlan, Steve Donaldson, and Andrew Chambers were Sergeants. Dkt. 121-1 at 240, 251, 246. Correctional sergeants do not have authority to compel medical staff to respond to a medical request. *Id.* at 241-42.

B. Medical Care

1. General Medical Care at WVCF

In general, inmates seeking non-emergent care are supposed to fill out a Request for Health Care form ("HCRF") to obtain medical treatment. Dkt. 133-11 ¶ 9. Sometimes, a member of prison staff will inform HSA Bedwell that a patient needs to be seen. *Id.* In either case, HSA Bedwell will relay that information to medical staff. *Id.* Then, the inmate will be seen by a nurse for evaluation before being seen by a physician or nurse practitioner. Dkt. 133-4 at 2, 4 (Byrd Interrogatories). The nurse triages the patients, and appointments are scheduled with a doctor or nurse practitioner, if necessary, based on the nurse's initial evaluation. Dkt. 133-4 at 4; dkt. 133-5 at 3. If a patient requires emergent medical attention, nursing personnel can contact a physician or nurse practitioner to provide necessary care. Dkt. 133-4 at 4; Dkt. 133-5 at 3.

It is Centurion's general policy for medical providers in correctional facilities to provide medical treatment to inmates who require emergency medical

attention. Dkt. 133-3 at 2 (Centurion Interrogatories). Centurion does not have a policy directing nursing personnel to deny an inmate access to a physician "when that inmate requires emergency medical attention." *Id.* When a doctor submits an Offsite Provider Request ("OPR"), the OPR is evaluated by Centurion's Regional Medical Director. Dkt. 133-9 ¶ 23. Neither Dr. Byrd nor HSA Bedwell has authority to approve such a request or plays any role in scheduling an approved offsite visit. *Id.* ¶ 24-25; dkt. 133-11 ¶ 11-12.

2. Mr. Snow's First Complaints of Gastrointestinal Issues

On May 5, 2022, Mr. Snow submitted an HCRF, reporting that he was experiencing black stool, cramping, and gas. Dkt. 172 at 49 (Med. Records Vol. 2).

Nurse Riggs saw Mr. Snow for a sick call on May 7, 2022, in response to his May 5 HCRF. Dkt. 171 at 84-86. (Med. Records Vol. 1). The parties' accounts of this nurse visit diverge. In her treatment note, Nurse Riggs stated that Mr. Snow reported that his stool was no longer black, and he was having 4-5 bowel movements each day rather than his usual one. *Id.* Mr. Snow's vital signs were normal. *Id.* Nurse Riggs's treatment note further states that she advised Mr. Snow that she would update the doctor and let him know of any orders. Dkt. 171 at 85. Mr. Snow testified at his deposition that Nurse Riggs only checked his vitals and said she would refer him to the doctor. Dkt. 133-8 at 22. Dr. Byrd ordered labs, which were collected on May 13, 2022, and returned results on May 16, 2022. Dt. 171 at 91, 7. The parties dispute whether Mr. Snow told Nurse Riggs that he was improving since his HCRF. Nurse Riggs documented that he

reported feeling better, but at his deposition Mr. Snow denied telling her this. Dkt. 133-8 at 70.

Nurse Riggs asks the Court to disregard Mr. Snow's testimony, arguing that it is "self-serving" and cannot be used to overcome Mr. Snow's medical records. Dkt. 134 at 18 n.2 (citing *Butts v. Aurora Health Care, Inc.*, 387 F.3d 921, 925 (7th Cir. 2004)). But the Seventh Circuit has "repeatedly emphasized" that "the term 'self-serving' must not be used to denigrate perfectly admissible evidence" such as Mr. Snow's deposition testimony. *Hill v. Tangherlini*, 724 F.3d 965, 967–68 (7th Cir. 2013) (emphasis added). Indeed, that court has explained:

> *Everything* a litigant says in support of a claim is self-serving, whether the statement comes in a complaint, an affidavit, a deposition, or a trial. Yet self-serving statements are not necessarily false; they may be put to the test before being accepted, but they cannot be ignored. Our opinion in *Hill v. Tangherlini*, 724 F.3d 965 (7th Cir. 2013), recounts the circuit's flirtation with a doctrine that allows judges to disregard self-serving statements, and it overrules any precedents that so much as hinted in that direction. It is dismaying to see plausible allegations labeled "self-serving" and then swept aside after *Hill* and its predecessors such as *Payne v. Pauley*, 337 F.3d 767 (7th Cir. 2003).

Sanders v. Melvin, 873 F.3d 957, 960 (7th Cir. 2017); *see Payne*, 337 F.3d at 773 ("We hope th[e foregoing] discussion lays to rest the misconception that evidence presented in a 'self-serving' affidavit is never sufficient to thwart a summary judgment motion."). Therefore, Mr. Snow's designation of his own statements creates a dispute of fact as to whether he told Nurse Riggs he was

feeling better at his May 7 nurse visit, the resolution of which requires a credibility determination that cannot be resolved at summary judgment.[2]

Dr. Byrd spoke with Nurse Riggs after Mr. Snow's visit on May 7, 2022. Dkt. 171 at 91. Dr. Byrd suspected that Mr. Snow's recent use of Mobic, a non-steroidal anti-inflammatory drug (NSAID), was causing his symptoms since Mobic can decrease production of hormones that protect the stomach lining. *Id.*; dkt. 133-9 ¶ 8 (Byrd Aff.). Dr. Byrd therefore discontinued Mobic. Dkt. 171 at 91. Mr. Snow had also previously taken cortico-steroids, which Dr. Byrd suspected could have also caused the symptoms. *Id.* at 93. Mr. Snow's labs done after the May 7, 2022, visit were normal aside from an elevated erythrocyte sedimentation rate (ESR), which indicates inflammation. *Id.* at 91; dkt. 133-9 ¶ 8. Mr. Snow's stool sample was negative for H. Pylori, a common bacteria that causes infections in the stomach or small intestine. *Id.* at 91; dkt. 133-9 ¶ 8. Dr. Byrd noted that these results could indicate an inflammatory condition. *Id.* He requested that Nurse Riggs have Mr. Snow complete FIT cards, which are used to screen for blood in the stool. *Id.*

Mr. Snow submitted another HCRF on May 11, 2022, requesting treatment for his abdominal pain and black diarrhea. Dkt. 133-8 at 23. There is no evidence

[2] The Court notes that counsel for Nurse Riggs has previously asked this Court to disregard "self-serving" testimony and instead rely only on the medical records. *See Toran v. Centurion Health of Indiana, LLC*, 2:23-cv-60-MPB-MKK, dkt. 127. Counsel should familiarize herself with *Hill* and the cases following *Hill* before making such an argument to this Court in the future. Any future instance of asking the Court to disregard admissible testimony as "self-serving" in contravention of binding Seventh Circuit caselaw may warrant sanctions under Rule 11 of the Federal Rules of Civil Procedure.

regarding who processed this HCRF and no evidence that Mr. Snow was seen in response to it.

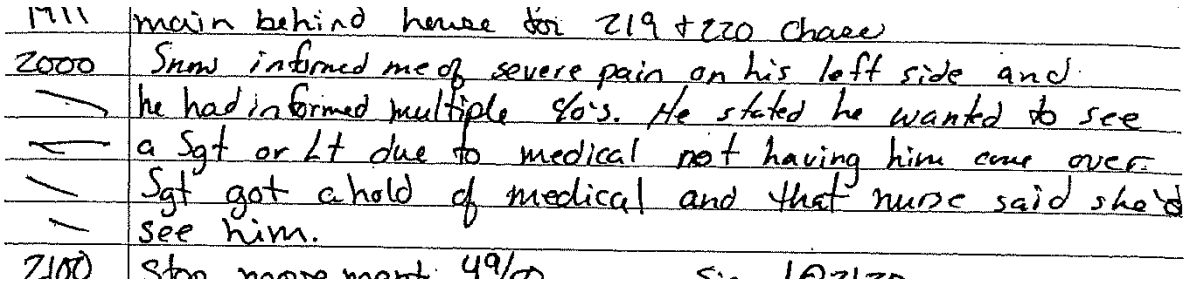
3. Late May 2022

a. May 20–23

Mr. Snow's symptoms "started really severely getting worse" on May 20, 2022. Dkt. 133-8 at 81-82. On the morning of May 23, Mr. Snow walked to the medical unit and explained to non-party Officer Michaels that he was suffering from severe abdominal pain, black diarrhea, and vomiting. *Id.* at 76-77. Officer Michaels told Mr. Snow that he would let HSA Bedwell know and Mr. Snow returned to work. *Id.* at 77. Mr. Snow didn't stay at work long, however, because he felt too ill. *Id.* Mr. Snow experienced vomiting and diarrhea most of the afternoon of May 23. *Id.* at 78.

At his deposition, Mr. Snow testified that he spoke to non-party Officer Stern on the evening of May 23 about his condition, and Officer Stern contacted the medical unit and spoke to Nurse Gilbert, who told Officer Stern to have Mr. Snow submit an HCRF. *Id.* He also testified that he spoke to Sergeant Hewitt who said that they had called Nurse Gilbert who said she would see Mr. Snow when she had time, but Mr. Snow did not see Nurse Gilbert that night. *Id.* at 78-79. Mr. Snow was up all night with vomiting and diarrhea and was not called to the medical unit. *Id.* at 80.

Mr. Snow also designates two log entries by correctional staff to support his contention that Officer Stern contacted Nurse Gilbert. First, a log entry from 10 pm that night states:



1911	main behind house for 219 + 220 chaos
2000	Snow informed me of severe pain on his left side and he had informed multiple C/O's. He stated he wanted to see a Sgt or Lt due to medical not having him come over. Sgt got a hold of medical and that nurse said she'd see him.
2100	Stm movement 49/D

Dkt. 121-1 at 222.[3] In addition, a log entry from later that evening states: "2200 CPT Brewer rounds, called Sgt. Henderson in reference to #221 Snow medical issue." *Id.* at 218.

Nurse Gilbert testifies that she does not recall being notified at any time in May of 2022 that Mr. Snow was suffering from a medical issue, whether emergent or not. Dkt. 133-12 ¶ 4, 7. She states that if she had been alerted of a medical emergency, she would have responded immediately. *Id.* ¶ 5. If she had

[3] In reply in support of their cross-motion for summary judgment, the Medical Defendants raise a wholesale objection to Mr. Snow's exhibits in support of his motion for summary judgment, filed at docket entry 121-1. The State Defendants do not object to these exhibits and, in fact, cite to some of them in their summary judgment briefing. The Medical Defendants argue generally that Mr. Snow's exhibits are unauthenticated as provided by Rule 902 of the Federal Rules of Evidence and are inadmissible hearsay and ask the Court to strike the entire filing at docket entry 121-1. Dkt. 142 at 6. Many of these documents, however, are HCRFs and medical records, which are also part of the exhibits the Medical Defendants submitted in support of their motion for summary judgment. For example, compare dkt. 121-1 at 2-9 and dkt. 172 at 47; dkt. 121-1 at 25-32 and dkt. 171 at 84-94. By relying on these documents at the summary judgment stage, the Medical Defendants appear to have conceded to their authenticity. To the extent that the Medical Defendants ask the Court to strike Mr. Snow's exhibits entirely, that request is **denied**. To the extent that the Medical Defendants object specifically to the authenticity of these shift logs, whether or not the logs are admissible at this time, as the Court explains, they do not support an inference that Nurse Gilbert was the nurse notified of Mr. Snow's condition.

been alerted to a non-emergent medical condition, she would have seen Mr. Snow by the end of her shift or scheduled sick call for the next day. *Id.* ¶ 8.

Mr. Snow did not submit an HCRF between May 20 and 23. Dkt. 133-8 at 82. HSA Bedwell testified that if she had received an HCRF, or if prison staff had informed her that Mr. Snow needed to be seen, she would have relayed that information to medical staff. Dkt. 133-11 ¶ 9.

b. May 24

Mr. Snow went to the medical unit again on the morning of May 24 and spoke to a non-party officer, who said he would let HSA Bedwell know about Mr. Snow's condition. Dkt. 133-8 at 41. When he was leaving the medical unit, Mr. Snow saw Sergeants Harlan and Chambers. *Id.* He tried to explain to them what he was suffering, but they refused to help him get medical attention. *Id.* When Mr. Snow returned to his housing unit, he spoke to the case worker and gave her a copy of his May 5 HCRF, which she emailed to HSA Bedwell. *Id.* at 42. At lunch time, Mr. Snow again spoke to Sergeant Donaldson about his condition, but Sergeant Donaldson would not help him. *Id.*

Mr. Snow later spoke to another non-party officer, who sent him to the medical unit. *Id.* at 20. Mr. Snow and Nurse Riggs again tell diverging versions of what happened next. Mr. Snow testifies that when he entered the medical unit, Nurse Riggs said, "go get your damn weight and sit your ass on exam table one." *Id.* at 36. When Mr. Snow entered the exam area, he saw Dr. Byrd in exam room two with another inmate. *Id.* at 87. Mr. Snow states that he started to explain to Nurse Riggs that he was in severe pain on the left side of his body and that he

had been having black diarrhea and vomiting for five days, but Nurse Riggs again told him there was nothing wrong with him. Dkt. 133-8 at 37. Nurse Riggs avers that she told Mr. Snow that his lab results were normal and offered to assess him, but he refused. Dkt. 133-10 ¶ 8. Mr. Snow stated that he was not leaving without seeing Dr. Byrd, but Nurse Riggs refused to let him see the doctor. Dkt. 133-8 at 37.

Mr. Snow "smacked his hands on the exam table telling [Nurse] Riggs that she cannot deny medical treatment for an emergency medical issue" and again requested to see Dr. Byrd. Dkt. 121 at 5.[4] Mr. Snow said, "I'm not fucking leaving here until I see the doctor." Dkt. 133-8 at 38. Nurse Riggs states that Mr. Snow "became belligerent," began yelling loudly, and threw his sunglasses. Dkt. 133-10 ¶ 8. Mr. Snow states that when he smacked the exam table, his sunglasses were knocked onto the floor. Dkt. 133-8 at 38.

Dr. Byrd was nearby and noted in Mr. Snow's records that Mr. Snow came to the nursing station "demanding a doctor visit at that moment." Dkt. 171 at 91; dkt. 133-9 ¶ 11. Because Dr. Byrd had been previously assaulted by an inmate, he steered clear of the situation. Dkt. 133-9 ¶ 11. Nurse Riggs states that if Mr. Snow had not become aggressive and threatening, she would have

[4] In reply in support of their motion for summary judgment, the Medical Defendants object to Mr. Snow's affirmation of the statements in his brief in support of his motion for summary judgment. That affirmation states: "I, the Plaintiff in the aforementioned cause, do affirm that I have read all of the statements contained in this summary judgment and that I believe them to be true and correct to the best of my personal knowledge and belief." Dkt. 121 at 42. Because Mr. Snow's affirmation clearly indicates his intention to affirm the statements made in his brief and, indeed, those statements are consistent with this deposition testimony, this objection is **overruled**.

conducted a physical exam and may have referred him to see Dr. Byrd either that day or within the next week, depending on her findings. *Id.* ¶ 9.

Mr. Snow testified that Nurse Riggs stormed out of the exam area and returned with Sergeants Harlan, Chambers, and Donaldson and told them to remove him. Dkt. 133-8 at 38-39 (testifying that she told them to "get this asshole out of here."). Mr. Snow and the defendants again dispute what happened next. Mr. Snow attests that Sergeants Harlan and Chambers placed him in handcuffs before giving him any orders to leave the room. Dkt. 133-8 at 40. Sergeant Harlan attests that Mr. Snow refused verbal commands to leave. Dkt. No. 121-1 at 241 (Harlan Interrogatories).

Sergeant Harlan grabbed Mr. Snow's left wrist and yanked it hard behind his back and straight up, causing Mr. Snow severe pain. Dkt. 133-8 at 40. Sergeant Chambers grabbed Mr. Snow's right wrist and twisted his hand. *Id.* As the sergeants were escorting Mr. Snow back to his unit, Sergeant Harlan was making threatening remarks and Sergeant Chambers was laughing. Dkt. 133-8 at 45. The defendants deny verbally abusing or threatening Mr. Snow. Dkt. No. 121-1 at 243.

Mr. Snow was having a hard time walking back to his unit and asked for a second to get his footing. Dkt. 133-8 at 45. Sergeant Donaldson pushed him from behind almost causing him to fall on his face. *Id.* at 45-46. Sergeants Harlan and Chambers yanked Mr. Snow back up in a painful manner, causing the handcuffs to cut his wrist. *Id.* at 45.

4. Continuing Medical Complaints

Mr. Snow submitted another HCRF on May 30, 2022, in which he stated, "still having pain in left side and re[a]l bad diarrhea." Dkt. 172 at 47. Dr. Byrd reviewed Mr. Snow's chart on June 4 at the request of an HSA. Dkt. 171 at 88; dkt. 133-9 ¶ 12. He ordered repeat labs, including a stool sample. Dkt. 171 at 88; dkt. 133-9 ¶ 12. He also prescribed omeprazole, which is a proton pump inhibitor that reduces the production of stomach acid. Dkt. 171 at 88; dkt. 133-9 ¶ 12.

Mr. Snow saw Dr. Byrd on June 6. Dkt. 171 at 91-94. Dr. Byrd noted a recent history of abdominal pain, intermittent black stools, loose stools that varied between black and the "color of peanut butter," decreased appetite, vomiting, cramping, and gas. *Id.* Mr. Snow reported taking Stress Liquid off of commissary, which Dr. Byrd suspected could have caused the black stools. *Id.* On exam, Dr. Byrd noted Mr. Snow had abdominal tenderness without guarding or rebound. *Id.* Mr. Snow's vital signs were normal. *Id.* Dr. Byrd informed Mr. Snow that he had ordered omeprazole to treat possible underlying inflammation that may have occurred because of the Mobic. *Id.* He provided Snow with FIT cards, and ordered repeat labs and stool sample to "further work up this abdominal pain." *Id.* Dr. Byrd noted that this testing would evaluate for inflammation of the stomach lining, duodenum, pancreas, and esophagus, as well as stones in the urinary tract, kidney infection, and Crohn's disease. *Id.* Dr. Byrd also noted that Mr. Snow did not appear to be having significant gastrointestinal distress at the time of this visit, and Dr. Byrd suspected that

stopping Mobic led to improvement in his symptoms. *Id.* Lab samples were collected later that day. Dkt. 171 at 9-11. Mr. Snow's repeat ESR was down to 0, indicating that his inflammation had improved. *Id.* His stool sample collected on June 16, 2022, was again negative for H. Pylori. *Id.* at 11.

Mr. Snow submitted another HCRF on June 26, 2022, in which he stated, "Having [severe] diarrhea pain on left side abdomen and loss of appetite." Dkt. 172 at 69. He submitted a HCRF on July 4, 2022, stating, "Still having re[a]l bad bowel problems with diarrhea and abdominal pain." Dkt. *Id.* at 65. Dr. Byrd saw Mr. Snow on July 13. Dkt. 171 at 112-16. He noted that Mr. Snow reported that his nausea, vomiting, and heartburn had resolved with the help of the omeprazole. *Id.* Mr. Snow continued to report abdominal pain, especially when eating soy foods. *Id.* Mr. Snow also had loose stools, though they were no longer black. *Id.* On exam, Dr. Byrd noted abdominal tenderness on Mr. Snow's left side. *Id.* His vital signs were normal. *Id.* Dr. Byrd wrote that, based on lab results, he doubted that inflammatory bowel disease was causing Mr. Snow's symptoms. *Id.* at 114. Dr. Byrd planned to screen for blood in stool, repeat labs, obtain a stool culture, and order imaging. *Id.* Dr. Byrd also planned to screen for soy allergy and gluten enteropathy. *Id.* He ordered Imodium to slow Mr. Snow's bowel movements. *Id.* Mr. Snow underwent imaging on July 15, which suggested constipation without acute complication. *Id.* at 30. Mr. Snow's labs were negative for soy allergens and gluten sensitivity, and his FIT test was negative. Dkt. 171 at 13-14, 117.

Mr. Snow saw a non-party nurse on July 26, 2022, for diarrhea and abdominal pain. Dkt. 171 at 119. Dr. Byrd saw Mr. Snow on August 7, and prescribed MiraLAX for constipation. *Id.*at 126. He noted:

> Miralax 17 gms in 8oz of fluid per day started for constipation on KU and likely soft to loose bowel movements occurring beyond stool mass in colon. It appears his bowel issues may have coincided with change in Depakote from 500 mg bid to 1000mg daily. Orders placed for Miralax and a change back to Depakote 500 mg bid.

Id.

Mr. Snow submitted another HCRF on September 1, 2022, stating, "Still having [severe] abdominal pain have been vomiting everything up for past day again I am very nauseated and feel re[a]l fatigue and sever[e] diarrhea. This has been going on since May I have put in numerous HCRF's regarding this issue and nothing has been done." Dkt. 172 at 71. On September 4, 2022, Dr. Byrd noted that Mr. Snow's lab results suggested Mr. Snow was experiencing insulin resistance. Dkt. 171 at 140. At Mr. Snow's request, and in light of his insulin resistance, Dr. Byrd placed an order for Snow to have a special soy-reduced diet. *Id.* Dr. Byrd revised the diet on October 12, 2022, to be soy-free. *Id.* at 158. On October 25, 2022, Mr. Snow reported that his diarrhea had almost fully resolved after changing to the soy-free diet. *Id.* at 163. On November 15, he again reported that he was feeling better with the new diet. *Id.* at 175. Mr. Snow states that sometimes his condition would get better, but it would then "come back with a vengeance." Dkt. 121 at 7.

Mr. Snow did not submit any HCRFs regarding abdominal or gastrointestinal issues between October 25, 2022, and the end of 2022. *See generally* dkt. 133-1.

On January 22, 2023, Mr. Snow submitted an HCRF stating that he was "starting to have bowel problems." Dkt. 172 at 111 (Med. Records Vol. 2). He was seen in nursing sick call two days later. *Id.* at 19-21. A non-party nurse noted that Mr. Snow's bowel issues had been going on for one month. *Id.* He saw the same nurse again on February 7, again complaining of ongoing abdominal pain. *Id.* at 22-24. He reported that his soy-free diet initially helped but was no longer as effective. *Id.* Mr. Snow saw a non-party nurse practitioner on February 14, 2023, and reported that he had been having constant, sharp, cramping stomach pains since mid-December 2022, similar to an episode in May 2022. *Id.* at 25-28. The nurse practitioner ordered several lab tests and imaging based on Mr. Snow's complaints. *Id.* at 27. Mr. Snow underwent imaging on February 17, 2023, which suggested constipation without complication. Dkt. 171 at 38. Mr. Snow's labs taken on February 24, 2023, were negative, as was a stool culture. *Id.* at 26-29.

On March 17, 2023, Dr. Byrd submitted an OPR for Mr. Snow to see a gastroenterologist. Dkt. 133-2 at 11-14. Dr. Byrd noted that Mr. Snow continued to have abdominal pain, usually with eating, as well as nausea and occasional vomiting, light brown stools, and loose stools. *Id.* Mr. Snow reported some mucous and blood in stools, which he claimed began in the previous month. *Id.* Dr. Byrd wrote that Mr. Snow noted that he had lost 45 pounds. *Id.* Dr. Byrd

testifies that, because he was able to evaluate and treat Mr. Snow's symptoms by ordering labs and imaging, manage his medications, and altering his diet, Mr. Snow did not need to be seen by an offsite specialist to treat his gastrointestinal issues in 2022. *Id.* at 22. It was only after these interventions stopped working, along with Mr. Snow's newly reported unexplained weight loss, that it became necessary and appropriate for Snow to be seen by an outside specialist. *Id.*

Mr. Snow saw the gastroenterologist on June 12, 2023. Dkt. 133-2 at 2. The gastroenterologist ordered an upper endoscopy to look for any source of the dark stools, and a colonoscopy to look for luminal lesions that could have been causing the constipation, weight loss, and change in stools. *Id.* Mr. Snow underwent an upper endoscopy and colonoscopy on August 7, 2023. *Id.* at 15-19. The upper endoscopy showed gastritis, which is inflammation of the stomach lining. Dkt. 133-2 at 18-19; dkt. 133-9 ¶ 27. Mr. Snow's colonoscopy showed hemorrhoids, as well a 6-mm polyp, which was removed. Dkt. 133-2 at 14-15; Doc. 133-9 ¶ 27. In contrast to prior stool antigens, a biopsy of the lowermost part of Snow's stomach conducted on August 9, 2023, showed that Mr. Snow was positive for H Pylori. Dkt. 133-2 at 7; dkt. 133-9 ¶ 27.

C. Grievances and Letters

Mr. Snow submitted a grievance on May 13, 2022, stating that he was seen by a nurse on May 7, 2022, for "black stool . . . cramping and pain re[a]l bad with bad gas." Dkt. 121-1 at 150. He requested treatment from "facility doctor and testing to find out what is causing abdomen pain." *Id.* Mr. Snow also submitted a grievance on May 26, 2022, about the incident on May 23-24. *Id.* at

152-57. Grievance Officer Crichfield consulted with HSA Sara Bedwell regarding the grievance on May 26, and HSA Bedwell responded that Dr. Byrd was consulted and ordered labs and that, on May 24, 2022, Mr. Snow "blew up, started screaming, threw his glasses on the ground, and got very aggressive and kicked the nurse because he didn't want to see her, he demanded to be seen by a doctor" while in medical. *Id.* at 183. Grievance Officer Crichfield responded to the grievance on May 26, 2022, stating, "[y]ou were seen by NSC on 5/24/22, where you were escorted back to your housing unit for acting in a threatening manner. If you are having health concerns, submit a HCRF to be seen. You have to act respectfully and follow proper procedures to be referred to a Dr." *Id.* at 151.

Mr. Snow submitted another grievance on October 6, 2022, in which he stated that he was having severe diarrhea and had not seen a doctor. Dkt. 121-1 at 106. He requested "proper treatment" for his medical condition. *Id.* Grievance Officer Crichfield responded, "[n]ot filled out completely, no relief stated. If you have been dealing with this since May, you have had plenty of time to grieve. Out of time frame." *Id.* at 161. Mr. Snow did not interact with Grievance Officer Crichfield other than through his grievances. Dkt. 133-8 at 33. In August of 2022, in response to an email about several grievances, Grievance Officer Crichfield wrote: "I try to return as many as I can but basically if they fill out the form right, I have no right to return it. It's crazy! Medical needs a dedicated grievance person. . . ." Dkt. 121-1 at 186.

Mr. Snow wrote a letter to Warden Vanihel in June of 2022, regarding the events of May 23-24. Dkt. 121 at 35; dkt. 121-1 at 208. Deputy Warden Gilmore forwarded Mr. Snow's letter to the medical department at WVCF. Dkt. 121-1 at 207. Mr. Snow wrote another letter to Warden Vanihel on July 6, 2022. Dkt. 121-1 at 197.

III.
Discussion

Mr. Snow alleges that all defendants were deliberately indifferent to his serious medical needs in violation of his Eighth Amendment rights. He also alleges that Sergeants Harlan, Chambers, and Donaldson used excessive force against him when removing him from the May 24 visit with Nurse Riggs and that Warden Vanihel and Deputy Warden Gilmore were aware of abuses by the Sergeants but failed to intervene to prevent them. The Court addresses Mr. Snow's claims against the Medical Defendants and then his claims against the State Defendants.

A. Medical Defendants

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

The Medical Defendants do not dispute that Mr. Snow's condition was objectively serious, but they argue that they were not deliberately indifferent to his condition. To show that the defendants were deliberately indifferent, Mr. Snow must designate evidence that they "consciously disregarded a serious risk to [Mr. Snow]'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. Snow "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).

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.*

1. Nurse Riggs

Mr. Snow saw Nurse Riggs twice, on May 7 and on May 24, 2022. On May 7, Mr. Snow was seen in nursing sick call in response to an HCRF he had submitted regarding black stool, cramping, and gas. Dkt. 172 at 49. Although the parties dispute whether Mr. Snow's symptoms were improving or whether Nurse Riggs examined him at that visit, it is undisputed that Nurse Riggs spoke to Dr. Byrd after this visit and that Dr. Byrd ordered a medication change and labs to help evaluate Mr. Snow's condition. Dkt. 171 at 91. Drawing all reasonable inferences in the light most favorable to Mr. Snow, no reasonable jury could find that Nurse Riggs was deliberately indifferent to Mr. Snow's condition when she sought further instruction regarding treatment of his condition from the doctor.

Next, Mr. Snow went to the medical unit on May 24 after having several days of vomiting and diarrhea. Dkt. 133-8 at 37. The parties dispute what happened at the May 24 appointment, with Mr. Snow testifying that Nurse Riggs treated him very rudely and told him there was nothing wrong with him based on his previous lab results. *Id.* at 87. Nurse Riggs attests that she offered to

assess him, but he refused, instead demanding to see the doctor. Dkt. 133-10 ¶ 8. Mr. Snow does not directly dispute this testimony but does state that she "ignored his complaints." Dkt. 121 at 9. The parties agree, however, that Mr. Snow demanded to see Dr. Byrd immediately. Mr. Snow admits that he "smacked his hands on the exam table telling [Nurse] Riggs that she cannot deny medical treatment for an emergency medical issue" and again requested to see Dr. Byrd. Dkt. 121 at 5. Mr. Snow said, "I'm not fucking leaving here until I see the doctor." Dkt. 133-8 at 38. Nurse Riggs then called correctional officers into the area. *Id.*

In these circumstances and considering the evidence in the light most favorable to Mr. Snow, no reasonable jury could find that Nurse Riggs was deliberately indifferent to his serious medical needs during the May 24 appointment. Even considering Mr. Snow's testimony that Nurse Riggs behaved rudely toward him, this on its own, while unprofessional, does not amount to deliberate indifference. *Swann v. Brubaker*, No. 3:14-CV-1889 RM, 2016 WL 1317709, at *2 (N.D. Ind. Apr. 5, 2016) (noting that a nurse's "rude comments towards [plaintiff], even if unprofessional and out of line didn't violate the Constitution.").

In addition, Nurse Riggs attests that she offered to examine him, but Mr. Snow demanded to see the doctor. Dkt. 133-10 ¶ 8. Mr. Snow's vague testimony that Nurse Riggs "ignored his complaints" is not enough to overcome her specific testimony on this point. *Daugherty v. Page*, 906 F.3d 606, 611 (7th Cir. 2018) ("Summary judgment is not a time to be coy: conclusory statements not grounded in specific facts are not enough."). Also, while Mr. Snow alleged in his

complaint that Nurse Riggs "did no physical examination of Snow's medical condition what so ever" and didn't take his vitals, dkt. 18 at 15, he testified in his deposition that Nurse Riggs weighed him, put him on the exam table, and attempted to take his blood pressure, dkt. 133-8 at 36. So, Mr. Snow's sworn testimony shows that Nurse Riggs was examining him and taking his vitals when their verbal altercation occurred, not that she refused to treat him. And once Mr. Snow became argumentative and belligerent, smacking the table, yelling, and using profanity, Nurse Riggs's decision to end the appointment was justified and therefore is not evidence of deliberate indifference. Last, while Mr. Snow demanded to see the doctor, he is not entitled to demand specific care. *See Walker v. Wexford Health Sources, Inc.*, 940 F.3d 954, 965 (7th Cir. 2019) (citing *Arnett v. Webster*, 658 F.3d 742, 754 (7th Cir. 2011)).

Because no reasonable jury could find that Nurse Riggs was deliberately indifferent to Mr. Snow's serious medical needs, she is entitled to summary judgment on the claims against her. For the same reason, Mr. Snow is not entitled to summary judgment on these claims.

2. Dr. Byrd

Dr. Byrd evaluated Mr. Snow's condition many times, ordering testing and changes to his medication and diet in response to Mr. Snow's symptoms. First, in early May, Dr. Byrd ordered labs and discontinued Mr. Snow's Mobic, believing that his symptoms could be caused by an inflammatory condition. Dkt. 171 at 91; dkt. 133-9 ¶ 8. He did not see Mr. Snow on May 24, but explains that he did not get involved in the commotion between Mr. Snow and Nurse Riggs

because he had previously been assaulted by an inmate. Dkt. 171 at 91; dkt. 133-9 ¶ 11. When Dr. Byrd saw Mr. Snow on June 6, he examined him and evaluated his complaints, ordering additional testing and medication for inflammation. Dkt. 171 at 91-94. The next time Dr. Byrd saw Mr. Snow was in July. Dkt. 171 at 112-16. He noted that Mr. Snow's nausea, vomiting, and heartburn had resolved, but he still had abdominal pain and some loose stools. *Id.* Dr. Byrd examined him again, ordered tests for soy allergy and gluten sensitivity, and ordered Imodium. *Id.*

When Dr. Byrd saw Mr. Snow again in August, he ordered MiraLAX, believing that Mr. Snow had a mass in his colon, which was causing the diarrhea. *Id.* at 126. Then, in September, Dr. Byrd ordered Mr. Snow a soy-free diet. *Id.* at 158. Mr. Snow had additional tests and imaging in February of 2023, which showed that Mr. Snow was experiencing constipation. Dkt. 171 at 138. Dr. Byrd then submitted a request for Mr. Snow to see a gastroenterologist, who Mr. Snow saw on June 12. Dkt. 133-2 at 11-14. There is no evidence that Dr. Byrd was responsible for the scheduling of this visit. Dkt. 133-9 ¶ 24-25. The gastroenterologist ordered additional testing and imaging and removed a 6 mm polyp. Dkt. 133-2 at 14-15; Doc. 133-9 ¶ 27. In contrast to prior stool antigens, a biopsy of the lowermost part of Mr. Snow's stomach conducted on August 9, 2023, showed that Snow was positive for H Pylori, a common stomach infection. Dkt. 133-2 at 7; dkt. 133-9 ¶ 27.

So, the designated evidence shows that Dr. Byrd saw Mr. Snow and evaluated his condition regularly and tried different testing and treatment

options, such as changing his diet and his medications. At times, Mr. Snow did report improvement in his condition. *See* dkt. 121 at 7. When his symptoms recurred, Dr. Byrd tried other courses of treatment. Mr. Snow has not designated evidence showing that Dr. Byrd persisted in a course of treatment that wasn't working, ignored instructions from a specialist, or caused unexplained delays in Mr. Snow's treatment. Similarly, the designated evidence does not show that Dr. Byrd made treatment decisions that departed so substantially "'from accepted professional judgment, practice, or standards as to demonstrate that'" those decisions were not based on judgment at all. *Petties*, 836 F.3d at 729.[5] Even if Dr. Byrd's decisions ultimately reflected mistakes in judgment or negligence, this is not enough to allow a finding of deliberate indifference. *See Stockton v. Milwaukee County*, 44 F.4th 605, 616 (7th Cir. 2022) ("Mistakes in medical judgment, even negligence, are insufficient to support deliberate indifference."). In short, no reasonable jury could find that Dr. Byrd was deliberately indifferent to Mr. Snow's condition. Dr. Byrd is entitled to summary judgment on Mr. Snow's claims and Mr. Snow is not entitled to summary judgment.

3. Nurse Gilbert

Mr. Snow's claim against Nurse Gilbert is based on his allegation that she failed to see him on the night of May 23, 2022. In support of that claim, Mr.

[5] Mr. Snow includes in his exhibits what are apparently articles about H. Pylori infections and other gastrointestinal conditions. Dkt. 121-1 at 71-79. The Medical Defendants object specifically to these exhibits as incomplete and not authenticated as required by Rule 901 of the Federal Rules of Evidence. The articles are therefore not enough to raise an inference that Dr. Byrd's care departed from accepted professional judgment.

Snow testifies that non-party correctional officers told him that they spoke to Nurse Gilbert on the evening of May 23, 2022, about Mr. Snow's vomiting and diarrhea. Dkt. 133-8 at 78-79. Mr. Snow also points to shift logs that he contends support this proposition. *See* dkt. 121-1 at 222, 218. Nurse Gilbert objects to Mr. Snow's testimony as inadmissible hearsay and the related shift logs as unauthenticated. Because Mr. Snow has presented statements of non-parties to support his contention that Nurse Gilbert was notified of his condition on the evening of May 23, 2022, these statements are hearsay and therefore cannot be designated as evidence that Nurse Gilbert knew about his conditions. *See* Fed. R. Evid. 801, 802. Further, the shift logs, whether authenticated or not, do not provide enough information to allow a jury to conclude that Nurse Gilbert was the medical professional called on the night of May 23. Instead, they simply state that an unidentified nurse was called. *See* dkt. 121-1 at 222. The logs further state that the "nurse said she'd see him." *Id.* There is therefore no designated evidence from which a jury could find that Nurse Gilbert was deliberately indifferent to Mr. Snow's condition that night. Without such evidence, Nurse Gilbert is entitled to summary judgment. *See Petties*, 836 F.3d at 728.

4. HSA Bedwell

Mr. Snow alleges that HSA Bedwell was deliberately indifferent when she failed to ensure he received treatment on the evening of May 23, 2022, after correctional staff alerted her to his condition. There is a dispute of fact as to whether HSA Bedwell was notified of his condition on or about May 23. Mr. Snow states that he went to the medical unit on the morning of May 23 and spoke to

Officer Michaels, who told him that he would let HSA Bedwell know about his condition. Dkt. 133-8 at 76-77. When he went to the medical unit the next day, Officer Michaels also told Mr. Snow that he informed HSA Bedwell of his condition. Dkt. 121 at 3. When Mr. Snow returned to his housing unit, he spoke to the case worker and gave her a copy of his May 5 HCRF, which she emailed to HSA Bedwell. *Id.* at 4.

HSA Bedwell testifies that if she had received an HCRF, or if prison staff had informed her that Mr. Snow needed to be seen, she would have relayed that information to medical staff. Dkt. 133-11 ¶ 9. But there is no evidence that medical staff was notified of Mr. Snow's condition. A reasonable jury that believed that correctional staff had informed HSA Bedwell of Mr. Snow's condition, but that HSA Bedwell did not take any steps to address it, could conclude that she was deliberately indifferent to his condition. She is therefore not entitled to summary judgment. On the other hand, a reasonable jury could believe HSA Bedwell's testimony that if she had been notified of his condition, she would have relayed it to medical staff and since she did not do so, she was not made aware of it. Mr. Snow therefore is not entitled to summary judgment.

5. Centurion

Private corporations acting under color of state law—including those that contract with the state to provide essential services to prisoners—are treated as municipalities for purposes of Section 1983 and can be sued when their actions violate the Constitution. *Dean v. Wexford Health Sources, Inc.*, 18 F.4th 214, 235 (7th Cir. 2021) (citing *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978)). To state

a *Monell* claim, the plaintiff must identify an action taken by the municipality and allege a causal link between the municipality's action and the deprivation of federal rights. *Dean,* 18 F.4th at 235. "A municipality 'acts' through its written policies, widespread practices or customs, and the acts of a final decisionmaker." *Levy v. Marion Co. Sheriff*, 940 F.3d 1002, 1010 (7th Cir. 2019).

"Liability under this standard is difficult to establish, requiring a § 1983 plaintiff to prove that a municipality, either through an express policy or an implied policy of inaction, took deliberate action that was the moving force behind a constitutional injury." *Taylor v. Hughes*, 26 F. 4th 419, 435 (7th Cir. 2022) (cleaned up). Liability may attach in two circumstances: First, "if an express municipal policy or affirmative municipal action is itself unconstitutional, . . . a plaintiff has a straightforward path to holding the municipality accountable . . . [and] a single instance of a constitutional violation caused by the policy suffices to establish municipal liability." *Id.* (cleaned up). Second, a plaintiff may show "gaps in express policies or . . . widespread practices that are not tethered to a particular written policy—situations in which a municipality has knowingly acquiesced in an unconstitutional result of what its express policies have left unsaid." *Id.* (cleaned up). Under this theory, a plaintiff "must typically point to evidence of a prior pattern of similar constitutional violations" to "ensure that there is a true municipal policy at issue, not a random event." *Id.* (cleaned up).

Mr. Snow argues that Centurion has a custom of allowing nursing staff to assess patients and deny them access to a doctor, of keeping inmates on

ineffective treatment plans to save money, and of not providing timely medical care. Dkt. 121 at 39. But Mr. Snow has not demonstrated his personal knowledge of these alleged policies or provided sufficient examples of those policies in action. Mr. Snow has referenced only his care and that of an unidentified inmate he states is not receiving cancer treatment to support his policy claim. *Id.* But to show that a policy, significantly more than a single instance is required. *See Daniel v. Cook Cnty.*, 833 F.3d 728, 734 (7th Cir. 2016) ("To prove an official policy, custom, or practice within the meaning of *Monell*, [plaintiff] must show more than the deficiencies specific to his own experience of course."); *see also Thomas v. Cook Cnty. Sheriff's Dep't*, 604 F.3d 293, 303 (7th Cir. 2009) ("[L]iability requires conduct in 'more than one instance.'").

Because Mr. Snow has not designated evidence that would allow a conclusion that the denial of medical care that he alleges was caused by a policy, practice, or custom by Centurion, Centurion is entitled to summary judgment and Mr. Snow is not entitled to summary judgment.

B. State Defendants

Mr. Snow brings claims regarding his medical care and alleged excessive force against the State Defendants.

1. Medical Claims

First, the State Defendants argue that Mr. Snow did not present to them with a serious medical need. A plaintiff can demonstrate an objectively serious medical condition at least two ways. A plaintiff can point to a condition that "a

physician has diagnosed as needing treatment." *McDonald v. Hardy*, 821 F.3d 882, 888 (7th Cir. 2016). Or a plaintiff can show that he suffers from a condition so objectively serious that "even a lay person would easily recognize the necessity for a doctor's attention." *Id.* "A condition can be 'obvious' to a layperson even where he or she is unable to diagnose or properly identify the cause of an observed ailment." *Orlowski v. Milwaukee Cnty.*, 872 F.3d 417, 423 (7th Cir. 2017). Because Mr. Snow experienced extended periods vomiting and diarrhea which required extensive testing and offsite evaluation, a jury could find that his condition was objectively serious. The Court therefore proceeds to determine whether there is designated evidence from which a jury could find that any of the individual State Defendants was deliberately indifferent to that condition.

a. Frank Vanihel and Kevin Gilmore

Warden Vanihel and Deputy Warden Gilmore argue that they were not personally involved in Mr. Snow's medical care. "[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). Here, the undisputed evidence, even considered in the light most favorable to Mr. Snow, demonstrates that neither Warden Vanihel nor Deputy Warden Gilmore were personally involved in his medical care.

Mr. Snow wrote a letter to Warden Vanihel in June of 2022, regarding the May 24 incident. Dkt. 121 at 35; dkt. 121-1 at 208. Deputy Warden Gilmore forwarded Mr. Snow's letter to the medical department at WVCF. Dkt. 121-1 at 207. Mr. Snow wrote another letter to Warden Vanihel on July 6, 2022. Dkt.

121-1 at 197. These letters are not enough to establish personal liability. To allow liability to be based upon "such a broad theory. . . [would be] inconsistent with the personal responsibility requirement for assessing damages against public officials in a § 1983 action." *Crowder v. Lash*, 687 F.2d 996, 1006 (7th Cir. 1982); *Vance v. Rumsfeld*, 701 F.3d 193, 204, 2012 WL 5416500, 10 (7th Cir. 2012) (knowledge of subordinates' misconduct is not enough for liability; *see also Burks v. Raemisch*, 555 F.3d 592, 595 (7th Cir. 2009) ("[The plaintiff's] view that everyone who knows about a prisoner's problem must pay damages implies that he could write letters to the Governor . . . and 999 other public officials, demand that every one of those 1,000 officials drop everything he or she is doing in order to investigate a single prisoner's claims, and then collect damages from all 1,000 recipients if the letter-writing campaign does not lead to better medical care. That can't be right.").

Warden Vanihel and Deputy Warden Gilmore are entitled to summary judgment on Mr. Snow's medical care claims against them. Mr. Snow is not entitled to summary judgment on these claims.

b. Shelby Crichfield

Grievance Officer Crichfield responded to two grievances from Mr. Snow. First, Mr. Snow filed a grievance on May 13, 2022, complaining of "black stool . . . cramping and pain re[a]l bad with bad gas." Dkt. 121-1 at 150. Mr. Snow also submitted a grievance on May 26, regarding his run-in with Nurse Riggs. *Id.* at 152. Grievance Officer Crichfield consulted with the medical department

regarding the grievance on May 26, 2022, and she responded to it that day stating,

> You were seen by NSC on 5/24/22, where you were escorted back to your housing unit for acting in a threatening manner. If you are having health concerns, submit a HCRF to be seen. You have to act respectfully and follow proper procedures to be referred to a Dr.

Id. at 151. Mr. Snow's condition was evaluated several times during the summer of 2022.

He submitted another grievance approximately five months later, in which he described his symptoms in detail, including having chronic "gut and abdominal pain sever[e] diarrhea" that "affects [his] daily activities and keeps [him] in chronic and substantive pain." *Id.* at 160-161 (grievance dated October 6, 2022). He further stated that "nothing is getting done to get to the bottom of [his] medical issue" and asked to have "proper treatment", including seeing a gastroenterologist. *Id.* Grievance Officer Crichfield responded, "[n]ot filled out completely, no relief stated. If you have been dealing with this since May, you have had plenty of time to grieve. Out of time frame." *Id.* Mr. Snow has also designated an email sent by Grievance Officer Crichfield, in which she states that she "tr[ies] to return as many [grievances] as she can. . . ." Dkt. 121-1 at 186.

Based on this evidence, a reasonable jury could conclude that Grievance Officer Critchfield's rejection of Mr. Snow's October 6 grievance was not reasonable and that his grievance had alerted her to his ongoing condition. *See Ingalls v. Centurion Health of Indiana, LLC*, No. 2:22-CV-00358-JMS-MG, 2024 WL 3888871, at *6 (S.D. Ind. Aug. 21, 2024) (finding that a reasonable jury could

find that the grievance officer's rejection of the plaintiff's grievance was not reasonable). A reasonable jury might also conclude that Grievance Officer Crichfield properly investigated Mr. Snow's May grievance and that her return of his October grievance was simply a mistake, which is not enough to establish deliberate indifference. Neither is entitled to summary judgment.

c. Sergeants Harlan, Donaldson, and Chambers

Mr. Snow argues that he put Sergeants Harlan and Chambers on notice of his need for care for his abdominal pain, vomiting, and diarrhea on the morning of May 24, 2022, and they failed to get him treatment. Mr. Snow spoke to Sergeants Harlan and Chambers about his condition on the morning of May 24 and spoke to Sergeant Donaldson after lunch. Dkt. 121 at 3. The defendants explain that an inmate should normally submit an HCRF to obtain medical care, but if they were confronted with a medical emergency, they would contact medical staff and inform them of the situation. Dkt. 121-1 at 242.

Because Mr. Snow had been experiencing vomiting and diarrhea for several days when he approached these defendants, and, indeed, another correctional officer did later contact medical staff on his behalf, a reasonable jury could conclude that Mr. Snow was having an urgent medical need that required prompt attention. That jury therefore could also conclude that, by ignoring his complaints, Sergeants Harlan, Donaldson, and Chambers were deliberately indifferent to his condition. A reasonable jury might also conclude that these defendants were not made aware of an urgent medical condition at that time and that therefore expecting Mr. Snow to pursue the typical HCRF process did not

amount to deliberate indifference. Therefore, neither Sergeants Harlan, Donaldson, and Chambers nor Mr. Snow are entitled to summary judgment on Mr. Snow's deliberate indifference claim.

B. Excessive Force

1. Sergeants Harlan, Chambers, and Donaldson

The Eighth Amendment protects inmates from cruel and unusual punishment, including excessive force by prison officials. *McCottrell v. White*, 933 F.3d 651, 662 (7th Cir. 2019). This rule does not bar *de minimis* force unless the force is "of a sort repugnant to the conscience of mankind." *Wilkins v. Gaddy*, 559 U.S. 34, 37-38 (2010) (per curiam) (cleaned up). Even if the force applied is not *de minimis*, it remains permissible if used "in a good-faith effort to maintain or restore discipline." *McCottrell*, 933 F.3d at 664 (cleaned up). But malicious or sadistic force—even if it does not cause a serious injury—is prohibited. *Id.* To distinguish between good- faith and malicious force, courts consider several factors, including:

> (1) the need for the application of force; (2) the relationship between the need and the amount of force that was used; (3) the extent of injury inflicted; (4) the extent of the threat to the safety of staff and inmates, as reasonably perceived by the responsible officials on the basis of the facts known to them; and (5) any efforts made to temper the severity of a forceful response.

Id. at 663; *see also Whitley v. Albers*, 475 U.S. 312, 321 (1986). These factors are sometimes referred to as the "*Whitley* factors." Additionally, to survive summary judgment, a plaintiff must present evidence supporting "a reliable inference of wantonness in the infliction of pain." *Whitley*, 475 U.S. at 322.

Mr. Snow testified that when Sergeant Harlan placed him in handcuffs, Sergeant Harlan yanked his left wrist hard behind his back and Sergeant Chambers twisted his right hand. Dkt. 133-8 at 40. He also testified that, when he was having trouble walking back to the unit, Sergeant Donaldson pushed him from behind and Sergeants Harlan and Chambers yanked him back up, cutting his wrists. *Id.* at 46.

Sergeants Harlan and Chambers argue that their actions were "measured" and not greater than necessary. Sergeant Donaldson also argues that he did not violate the Eighth Amendment when he pushed Mr. Snow while walking back to his unit. These defendants point out that not every push or shove will violate the Constitution. *See Graham v. Connor,* 490 U.S. 386, 397 (1989). But the "core requirement" for an excessive force claim is that the defendant "used force not in a good-faith effort to maintain or restore discipline, but maliciously and sadistically to cause harm." *Hendrickson v. Cooper*, 589 F.3d 887, 890 (7th Cir. 2009). And a reasonable jury believing Mr. Snow's testimony that Sergeants Harlan and Chambers did not order him to submit to handcuffs, yanked and twisted his arms, and pulled him up so roughly that he cut his wrists could conclude that they did so unnecessarily to cause Mr. Snow harm. Likewise, a reasonable jury believing Mr. Snow's testimony that Sergeant Donaldson pushed him when he was having trouble walking could conclude that Sergeant Donaldson did so simply to cause him harm. Sergeants Harlan, Chambers, and Donaldson are therefore not entitled to summary judgment on Mr. Snow's excessive force claim. A reasonable jury might also believe that the Sergeant's

actions were not more than necessary to gain Mr. Snow's compliance and did rise to the level of excessive force. Mr. Snow therefore is not entitled to summary judgment on this claim.

2. Warden Vanihel and Deputy Warden Gilmore

As with Mr. Snow's medical claims against Warden Vanihel and Deputy Warden Gilmore, he must designate evidence that these defendants were personally involved in the alleged excessive force. For a public official to be individually liable for a subordinate's constitutional violation, the official must both "(1) know about the conduct and (2) facilitate, approve, condone, or turn a blind eye toward it." *Gonzalez v. McHenry County, Ill.*, 40 F.4th 824, 828 (7th Cir. 2022). Because there is no evidence that Warden Vanihel or Deputy Warden Gilmore were aware of any practice by Sergeants Harlan, Chambers, or Donaldson in using excessive force against inmates, they are entitled to summary judgment on this claim. For the same reason, Mr. Snow is not entitled to summary judgment.

IV.
Conclusion

Mr. Snow's motion for evidence, dkt. [143], and his motion for summary judgment, dkt. [121], are **DENIED.** The Medical Defendants' motion for summary judgment, dkt. [132], is **GRANTED IN PART AND DENIED IN PART**. The State Defendants' motion for summary judgment, dkt. [127], is **GRANTED IN PART AND DENIED IN PART**.

The claims that remain are Mr. Snow's Eighth Amendment deliberate indifference claims against Sara Bedwell, Shelby Crichfield, and Sergeants Harlan, Chambers, and Donaldson and Mr. Snow's excessive force claims against Sergeants Harlan, Chambers, and Donaldson. The **clerk shall terminate** Kevin Gilmore, Barbra Riggs, Samuel Byrd, Frank Vanihel, Nurse Gilbert, and Centurion Health as defendants.

The Court prefers that Mr. Snow be represented by counsel for the remainder of this action. The **clerk is directed** to send Mr. Snow a motion for assistance recruiting counsel with his copy of this Order. Mr. Snow has **through November 25, 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.

SO ORDERED.

Date: 10/28/2025

James Patrick Hanlon

James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

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