UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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PLRA C.R. 3(b) FINAL ORDER

July 25, 2018

No. 18-1627	KEITH L. WILLIAMS, Plaintiff - Appellant v. KUL SOOD, Doctor, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 4:16-cv-04075-SEM-TSH Central District of Illinois District Judge Sue E. Myerscough	

The pro se appellant was DENIED leave to proceed on appeal in forma pauperis by the appellate court on June 7, 2018 and was given fourteen (14)days to pay the $505.00 filing fee. The pro se appellant has not paid the $505.00 appellate fee. Accordingly,

IT IS ORDERED that this appeal is **DISMISSED** for failure to pay the required docketing fee pursuant to Circuit Rule 3(b).

IT IS FURTHER ORDERED that the appellant pay the appellate fee of $505.00 to the clerk of the district court. The clerk of the district court shall collect the appellate fees from the prisoner's trust fund account using the mechanism of *Section 1915(b). Newlin v. Helman, 123 F.3d 429, 433* (7th Cir. 1997).

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
ROCK ISLAND DIVISION

KEITH L. WILLIAMS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 16-cv-4075-SEM
	)	
DR. KUL B. SOOD, et al.,	)	
	)	
Defendants.	)	

SUMMARY JUDGMENT ORDER

SUE E. MYERSCOUGH, U.S. District Judge:

Plaintiff, Keith L. Williams, proceeding pro se and currently incarcerated at Hill Correctional Center ("Hill"), filed suit under 42 U.S.C. § 1983, alleging that Defendants Dr. Kul B. Sood, Lois Lindorff, Anthony Carter, and Wexford Health Sources, Inc. ("Wexford") failed to adequately treat his medical conditions, such as glaucoma, ear infections, and tinnitus. He believes that his conditions are indicative of a serious medical condition, such as cancer or a tumor, and he alleges that Defendants refused to order x-rays or an MRI to diagnose his underlying condition. On June 17, 2016, the Court entered a merit review order [6], finding that

Plaintiff stated an Eighth Amendment claim for deliberate indifference to a serious medical need.

Now before the Court for consideration are three motions for summary judgment: one filed by Defendant Carter [87], one filed jointly by Defendants Sood and Wexford [89], and one filed by Defendant Lindorff [95]. Plaintiff filed a response [93] to Carter's motion, and Carter filed a reply [99]. Plaintiff subsequently filed a motion to supplement his response [107], which the Court now grants. The Court will consider Plaintiff's supplemental response as a sur-reply. Plaintiff also filed a combined response [104] to Sood, Wexford, and Lindorff's motions. Sood and Wexford filed a reply [109].

Based on the parties' pleadings, depositions, affidavits, and other supporting documents filed with the Court, all three of Defendants' motions for summary judgment are GRANTED.

I. MATERIAL FACTS

Plaintiff, who has a ninth-grade education, has been incarcerated in the Illinois Department of Corrections (IDOC) since 1995. (Pl.'s Dep. 10:21–11:14, ECF No. 87-1.) In 1997, a doctor

diagnosed Plaintiff with open-angle glaucoma[1] and prescribed him timolol maleate eye drops.[2] (*Id.* at 15:9–11, 16:20–17:1, 58:9–59:2.) After Plaintiff started using the eye drops, he experienced ringing in his ears, which he claims was caused by the eye drops. (*Id.* at 37:8–12.)

In 2003, Plaintiff was told that his eyes were stable and that he did not have glaucoma, and so he was no longer prescribed the eye drops. (*Id.* at 17:2–14, 36:8–13, 51:16–52:5.) Plaintiff's medical records indicate that he has never been re-diagnosed with glaucoma. (Med. Rs., ECF Nos. 89-2 to -8.) Plaintiff, however, believes that he still has glaucoma and that he has had it since 1997 because he was previously told there is no cure for glaucoma. (Pl.'s Dep. 52:24–53:17.) From 2003 until approximately 2011, Plaintiff did not have any issues with his eyes. (*Id.* at 91:3–14.)

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[1] "Glaucoma is a group of diseases that damage the eye's optic nerve and can result in vision loss and blindness. . . . In open-angle glaucoma, . . . the pressure inside the eye rises to a level that may damage the optic nerve. When the optic nerve is damaged from increased pressure, open-angle glaucoma—and vision loss—may result. That's why controlling pressure inside the eye is important." *Facts About Glaucoma*, NAT'L EYE INST., https://nei.nih.gov/health/glaucoma/glaucoma_facts (last updated Sept. 2015).

[2] "This medication is used to treat high pressure inside the eye due to glaucoma (open angle-type) or other eye diseases (e.g., ocular hypertension). Lowering high pressure inside the eye helps to prevent blindness." *Timolol Maleate Drops*, WEBMD, https://www.webmd.com/drugs/2/drug-13612-507/timolol-maleate-ophthalmic/timolol-solution-ophthalmic/details (last visited February 21, 2018).

In 2009, Plaintiff was transferred to Hill. (*Id.* at 5:15–20.) Around 2011, Plaintiff began to suffer from a variety of conditions that appeared at different times over the next few years, including ear infections, folliculitis, dizziness (vertigo), ringing in his ear (tinnitus), ear pain, blurred vision, black specks in his field of vision, headaches, pressure behind his eyes, sinus problems, fungal infections on his feet, skin pigmentation (white spots), hypertension, and depression. (*Id.* at 35:17–24, 38:8–39:6, 42:7–10, 47:14–21, 59:14–60:2.) Plaintiff thinks he might have cancer or a tumor. (*Id.* at 78:22–24.)

Plaintiff believes that many of these conditions and symptoms may have been caused by the timolol maleate eye drops he used between 1997 and 2003. (*Id.* at 46:14–47:21, 77:12–21.) Plaintiff submits a medicine label for timolol maleate that lists headaches, hypertension, tinnitus, dizziness, and depression (and other symptoms not relevant here) as possible side effects. (Pl.'s Resp. to Carter, Ex. C1, ECF No. 93-3.) He also points to language on the label that states the following:

> In a lifetime oral study in mice, there were statistically significant increases in the incidence of benign and malignant pulmonary tumors, benign

> uterine polyps and mammary adenocarcinomas in female mice at . . . approximately 71,000 times the systemic exposure following the maximum recommended human ophthalmic dose . . . .

(*Id.*)

Defendants Sood and Carter do not believe that the timolol maleate eye drops caused any of Plaintiff's medical conditions. (Sood Aff. ¶ 75, ECF No. 89-1; Carter Aff. ¶ 73, ECF No. 87-2.) While Plaintiff was under Sood's care, Sood did not see any objective signs that Plaintiff had or was at risk of developing cancer or a tumor. (Sood Aff. ¶¶ 64, 76.)

Plaintiff is suing Defendants Sood, Carter, Lindorff, and Wexford for allegedly providing him inadequate medical treatment for his glaucoma and the many medical conditions listed above, as well as for not ordering diagnostic tests, such as an MRI, to rule out whether he has cancer, a tumor, or some other serious condition.

A. Facts Related to Defendant Sood

Defendant Sood has been a licensed physician in the State of Illinois since 1990. (*Id.* ¶ 1.) At all relevant times, he was employed by Wexford, an IDOC contractor that provides medical services to inmates. (*Id.* ¶ 3.) Between May 2010 and July 2016, Sood was the

medical director at Hill. (*Id.* ¶ 4.) During that time, Sood saw Plaintiff approximately thirty-one times for various complaints, including many of the medical conditions already discussed. (*Id.* ¶ 10.)

1. Ear infections

On October 9, 2012, Plaintiff complained of itching and ringing in his ears. (*Id.* ¶ 21.) Defendant Sood examined Plaintiff and diagnosed him with otitis externa (outer ear infection). (*Id.*) Sood prescribed Plaintiff otic (i.e., relating to the ear) neomycin-polymyxin-hydrocortisone (HC) drops. (*Id.*) On October 18, 2012, Sood saw Plaintiff for a follow-up appointment and diagnosed Plaintiff with left otitis media (middle ear infection). (*Id.* ¶ 23.) Sood prescribed Plaintiff Motrin (a pain reliever). (*Id.*) On October 22, 2012, Sood diagnosed Plaintiff with left ear chronic otitis and prescribed Plaintiff otic ciprofloxacin HC drops. (*Id.* ¶ 24.)

For the next six months, Defendant Sood continued to see Plaintiff approximately once per month for Plaintiff's ear infection. (*Id.* ¶¶ 26–33.) Over the course of these visits, Sood increased the dosage of the medications at times, as well as changed the type of medication prescribed "in an attempt to ascertain if [Plaintiff's] body

would respond favorably to the new medication." (*Id.* ¶ 29.) When Sood examined Plaintiff on April 25, 2013, Plaintiff's ear infection "had completely resolved." (*Id.* ¶ 33.)

On February 26, 2014, Plaintiff complained of drainage in his right ear. (*Id.* ¶ 36.) Defendant Sood examined Plaintiff but did not find any discharge or drainage in Plaintiff's ear. (*Id.*) On August 5, 2014, Plaintiff complained of itching in his left ear. (*Id.* ¶ 39.) Sood diagnosed Plaintiff with otitis externa and prescribed neomycin-polymyxin-dexamethasone drops. (*Id.*) On October 16, 2014, Sood noted that Plaintiff's ear canal was clear. (*Id.* ¶ 40.) On June 17, 2015, Sood again prescribed Plaintiff neomycin-polymyxin-dexamethasone drops to rule out an infection. (*Id.* ¶ 55.) On September 15, 2015, Sood noted that Plaintiff's ear canal was clear. (*Id.* ¶ 56.)

Defendant Sood states that the neomycin-polymyxin-dexamethasone drops he prescribed Plaintiff are eye drops that can also be used as ear drops. (*Id.* ¶ 39.) Sood prescribed these drops for Plaintiff to use in his ears, which is how Plaintiff used them. (Pl.'s Dep. 26:7–18.) Plaintiff believes that these drops cause glaucoma. (*Id.*) He submits a medicine label for the drops, which

indicates that the steroid component of the drug may cause adverse reactions such as "elevation of intraocular pressure (IOP) with possible development of glaucoma, and infrequent optic nerve damage . . . ." (Pl.'s Resp. to Carter, Ex. C3, ECF No. 93-3.) The label indicates that the drops are to be used in the eyes. (*Id.*)

Plaintiff believes that the neomycin-polymyxin-dexamethasone drops (as well as the other ear drops Defendant Sood prescribed) also caused or aggravated Plaintiff's other medical conditions, such as the fungal infections on his feet. (Pl.'s Dep. 38:8–39:6, 66:17–67:2.) Plaintiff points to language on the neomycin-polymyxin-dexamethasone medicine label that states "fungal infections of the cornea are particularly prone to develop" with long-term use. (Pl.'s Resp. to Carter, Ex. C3.)

Defendants Sood and Carter, in their professional opinion, do not believe that the neomycin-polymyxin-dexamethasone drops caused Plaintiff to have glaucoma. (Sood Aff. ¶ 74; Carter Aff. ¶ 75.) They also do not believe that these drops or any of the other drops prescribed by Sood caused any of Plaintiff's medical conditions. (Sood Aff. ¶ 74; Carter Aff. ¶ 75.)

Plaintiff disagrees with Defendant Sood's treatment decisions regarding the ear infections. (Pl.'s Dep. 68:7–20.) Plaintiff does not believe that antibiotics will cure the problems with his ears. (*Id.*) He submits an excerpt from the Merck Manual in which he points out that it states the following: "To treat generalized external otitis from any cause, a doctor first removes the infected debris from the canal with suction or dry cotton wipes." (Pl.'s Resp. to Sood & Lindorff, Ex. B1, ECF No. 104-4.) Plaintiff states that Sood did not remove the infected debris from Plaintiff's ear canal with suction or dry cotton wipes. (Pl.'s Resp. to Sood & Lindorff 29, ECF No. 104-1.) He states that Sood instructed him to put "ear drops in his ears alongside infected debris." (*Id.*)

2. Folliculitis

On October 4, 2010, Defendant Sood saw Plaintiff regarding a rash on the back of Plaintiff's scalp. (Sood Aff. ¶ 12.) Sood diagnosed Plaintiff with scalp folliculitis. (*Id.*) "Folliculitis is a very common, benign skin disorder that appears as pinpoint red bumps . . . ." (*Id.* ¶ 41.) It is easily curable with over-the-counter antibacterial medication, and it "frequently clears on its own without treatment although it may require ongoing maintenance

therapy." (*Id.*) In Sood's professional opinion, folliculitis "is not indicative of a serious medical issue." (*Id.* ¶ 79.) During the visit, Sood prescribed Plaintiff HC 1% ointment. (*Id.* ¶ 12.) Four days later, Plaintiff reported to a nurse that his scalp was better. (Med. Rs. 77.) The nurse noted that there were no signs of infection. (*Id.*)

Plaintiff next complained about bumps on the back of his head on July 29, 2012. (Sood Aff. ¶ 64.) Plaintiff did not bring up the issue again until more than two years later, even though Defendant Sood saw Plaintiff thirteen times during the interim. (*Id.*) When Plaintiff next complained about the issue on October 16, 2014, Sood assessed Plaintiff as having pseudofolliculitis[3] and prescribed him bacitracin (an over-the-counter antibiotic ointment). (*Id.* ¶ 40.) Sood saw Plaintiff on December 17, 2014, for a follow-up appointment regarding the pseudofolliculitis but did not prescribe any additional medication. (*Id.* ¶ 45.) Although Sood saw Plaintiff five more times after this appointment, Plaintiff never complained to Sood again about the pseudofolliculitis. (*Id.* ¶ 64.)

[3] Defendant Sood does not explain the difference between folliculitis and pseudofolliculitis.

Plaintiff states that he still gets bumps on the back of his head. (Pl.'s Dep. 70:5–9.) He believes that the bumps could be "cancer or [a] tumor." (*Id.* at 78:15–24.) He does not believe that he has folliculitis. (Pl.'s Resp. to Sood & Lindorff ¶ 30.)

3. Vertigo and tinnitus

On February 26, 2014, Plaintiff presented to Defendant Sood with complaints of room spinning (vertigo) and ear ringing (tinnitus). (Sood Aff. ¶ 69.) "Tinnitus involves the annoying sensation of hearing sound when no external sound is present." (*Id.* ¶ 48.) It is not a condition itself, but rather, it is a "symptom of an underlying condition, such as age-related hearing loss, ear injury or a circulatory system disorder." (*Id.* ¶ 47.) Tinnitus "is not indicative of an underlying serious medical issue." (*Id.* ¶ 78.) Currently, there is neither a cure for tinnitus nor FDA-approved drugs available specifically for tinnitus. (*Id.* ¶ 49.)

During the February 26, 2014, visit, Defendant Sood prescribed Plaintiff Antivert, an anti-vertigo medicine, which Sood believed might also help Plaintiff's tinnitus. (*Id.*) On April 23, 2014, Plaintiff continued to complain of tinnitus and vertigo at his follow-

up appointment with Sood. (*Id.*) On that visit, Sood doubled the dosage of Antivert. (*Id.*)

On August 5, 2014, Plaintiff reported to Defendant Sood that the ringing in his ears was better. (*Id.* ¶ 70.) Plaintiff did not report sensations of room spinning. (*Id.*) Sood continued Plaintiff's Antivert prescription. (*Id.*) On October 16, 2014, Plaintiff again reported that the ringing in his ears was better. (*Id.*) Since Plaintiff was responding well to Antivert, Sood increased the dosage. (*Id.*)

Between November 12, 2014, and March 23, 2015, Plaintiff continued to report ringing in his ears, so Defendant Sood changed the frequency and increased the dosage of Antivert. (*Id.* ¶ 71.) On March 23, 2015, Sood participated in a collegial review with another doctor on this issue. (*Id.*) They concluded that Antivert was appropriate since Plaintiff was responding positively to it, even though it had not completely resolved the issue. (*Id.*)

Plaintiff submits an excerpt from the Merck Manual in which he points out that it states the following:

> Tinnitus that is only in one ear or that pulsates is a more serious sign. A pulsating sound may result from certain tumors, a blocked artery, an aneurysm, or other blood vessel disorders. . . . Because a person who has tinnitus usually has

> some hearing loss, thorough hearing tests are performed as well as magnetic resonance imagining (MRI) of the head and computed tomography (CT) of the temoporal bone . . . .

(Pl.'s Resp. to Sood & Lindorff, Ex. A.)

Regarding dizziness and vertigo, Plaintiff points out that it states the following:

> Vertigo has many causes, including motion sickness, benign paroxysmal positional vertigo, and Meniere's disease. . . . [D]iagnostic procedures may include computed tomography (CT) or magnetic resonance imaging (MRI) of the head and a spinal tap (lumbar puncture).

(Pl.'s Resp. to Sood & Lindorff, Ex. A20.)

Plaintiff states that he reported to Defendant Sood that his tinnitus occurred in only one ear and pulsated like a drumbeat. (Pl.'s Resp. to Sood & Lindorff 18.) Plaintiff states that, according to the Merck Manual, these symptoms indicate that he has a tumor or other serious condition. (*Id.*) On April 20, 2014, November 2, 2014, April 5, 2015, June 9, 2015, and February 22, 2016, Plaintiff wrote letters to Sood explaining that he believes his tinnitus and other conditions are symptoms of a more serious underlying medical condition, such as cancer or a tumor. (Pl.'s Resp. to Sood & Lindorff, Exs. 1–6.) Plaintiff requested that Sood order diagnostic

tests such as x-rays or an MRI to accurately diagnose his underlying condition. (*Id.*)

In Defendant Sood's professional medical opinion, "an MRI would be of little to no use in diagnosing a root cause of ringing in the ears." (Sood Aff. ¶ 44.) Moreover, in Sood's opinion, an MRI was not necessary for any of the conditions for which he was treating Plaintiff. (*Id.*)

4. Ear pain

On June 17, 2015, Defendant Sood saw Plaintiff for left ear pain. (*Id.* ¶ 55.) Plaintiff presented with white flakes in his ear, the cause of which was uncertain to Sood. (*Id.* ¶ 72.) Consequently, Sood again placed Plaintiff on neomycin-polymyxin-dexamethasone drops, as well as Claritin to rule out seasonal allergies versus an infection. (*Id.*) On September 15, 2015, Sood saw Plaintiff on a follow-up appointment for his left ear pain. (*Id.* ¶ 36.) Sood examined Plaintiff but did not see any signs of infection. (*Id.*) Sood assessed Plaintiff as having chronic left ear tinnitus with pain. (*Id.*) Sood prescribed Plaintiff naproxen, as well as ofloxacin ear drops as a precaution due to Plaintiff's previous infections. (*Id.*)

On November 15, 2015, a nurse saw Plaintiff for his ear pain, after which she talked to Sood, who prescribed Plaintiff ciprofloxacin HC drops and Motrin. (Med. Rs. 206.) Plaintiff again complained about ear pain on December 29, 2015. (Sood Aff. ¶ 58.) Plaintiff reported that the pain medication helped a lot for his pain and told Sood that he did not want any more ear drops. (*Id.*) Sood prescribed Plaintiff Motrin and Bactrim (an oral antibiotic) and discontinued the ear drops. (*Id.*) On March 14, 2016, Sood saw Plaintiff for the last time and noted that Motrin was effective in reducing Plaintiff's ear pain. (*Id.* ¶ 59.) Sood again prescribed Plaintiff Motrin. (*Id.*)

5. Vision issues

Regarding Plaintiff's vision issues, such as blurred vision and black specks in his field of vision, Defendant Sood deferred treatment to Defendant Carter and an outside eye group who performed tests on Plaintiff's eyes. (*Id.* ¶ 77.) Sood "saw nothing in Dr. Carter's treatment of Plaintiff which made [him] question the quality of his care in any manner." (*Id.*) In Sood's opinion, "Plaintiff's eye issues were being appropriately addressed." (*Id.*)

6. Headaches and sinus problems

For a few months in 2015 and 2016, Plaintiff reported having headaches. (*Id.* ¶ 82.) Defendant Sood did not believe that Plaintiff's "headaches were caused by a serious underlying medical condition as evidenced by Plaintiff's positive response from the [nonsteroidal anti-inflammatory drugs he] prescribed." (*Id.*) According to Sood, Plaintiff's "self-reported pressure in his head was consistent with sinuses and headaches." (*Id.* ¶ 83.)

7. Fungal infections and skin pigmentation

Defendant Sood did not treat Plaintiff for the fungal infections on his feet (athlete's foot) or skin pigmentation. (*Id.* ¶ 81.) On September 20, 2012, July 25, 2015, and October 17, 2015, nurses noted that Plaintiff had athlete's foot and gave him Tinactin, a non-prescription anti-fungal agent. (Med. Rs. 198.) Plaintiff acknowledges that nurses gave him cream to use on his feet, but he states it did not get rid of the fungal infections. (Pl.'s Dep. 41:8–42:2.)

Plaintiff saw a nurse on April 29, 2015, who noted that Plaintiff had white spots on his arms, legs, and stomach (Plaintiff has a black skin tone), as well as bumps on the back of his head.

(Med. Rs. 186.) The nurse prescribed Plaintiff selenium sulfide shampoo and told him to return to sick call if his symptoms worsened or did not improve after one month. (*Id.*) The medical records do not reflect that Plaintiff again complained about skin pigmentation, and Plaintiff has not pointed to any specific date where he was denied treatment for this condition.

8. Hypertension and depression

Plaintiff's blood pressure was taken during many of his visits to the Health Care Unit. (Sood Aff. ¶¶ 16–40.) On October 9, 2012, Plaintiff saw Defendant Sood with complaints of itching in both ears and a "ringing drumbeating" in his ears. (*Id.* ¶ 21.) Plaintiff's blood pressure was 118/90. (*Id.*) Sood wanted to rule out hypertension, so he ordered that Plaintiff's blood pressure be taken for the next five days. (*Id.*) Plaintiff's blood pressure readings were 122/78, 148/90, 140/90, 122/78, and 138/74. (Med. Rs. 317.)

On October 22, 2012, Plaintiff saw Defendant Sood to follow up on his blood pressure checks. (Sood Aff. ¶ 24.) During this visit, Plaintiff's blood pressure was 96/62. (*Id.*) Sood reviewed Plaintiff's blood pressure readings and noted that Plaintiff had borderline high blood pressure. (*Id.*) Over the next three and a half years, Plaintiff's

blood pressure ranged from 102/68 on the low end to 138/72 and 124/88 on the high end. (*Id.* ¶¶ 16–40.) Sood did not diagnose Plaintiff with hypertension and did not prescribe medicine for his blood pressure. (*Id.*)

The medical records do not reflect that Plaintiff complained to Defendant Sood about depression or that Sood treated Plaintiff for depression. Plaintiff does not present any evidence to support his allegation that Sood was deliberately indifferent to his depression.

B. Facts Related to Defendant Carter

Defendant Carter is an optometrist licensed to practice optometry in the State of Illinois. (Carter Aff. ¶ 1.) Carter is not an employee of IDOC or Wexford, and he does not have an office at Hill. (*Id.* ¶¶ 4, 7.) Carter is "an independent contractor for Eye Care Solutions which has a contract to provide eye care services to inmates" at Hill. (*Id.* ¶ 5.)

On April 20, 2014, November 2, 2014, and April 6, 2015, Plaintiff sent letters addressed to "Eye Doctor," complaining that he had black specks in his field of vision, dry eyes, blurry vision, headaches, and pressure behind the eyes. (Pl.'s Resp. to Carter, Exs. B1, B4, B7.) He explained that he had a history of glaucoma

and wanted to know if his current problems were related to his glaucoma. (*Id.*) He also pointed out that he might have a tumor behind his eyes. (*Id.*)

Defendant Carter states that he is "not involved in collecting grievances directly from inmates" at Hill and that he "did not receive or respond to any grievances or inmate requests relating to [Plaintiff] before May of 2015." (Carter Aff. ¶¶ 8, 10.)

On May 5, 2015, Defendant Carter saw Plaintiff for the first time. (*Id.* ¶ 19; Pl.'s Dep. 18:14–16.) Plaintiff's chief complaint was that he had a history of glaucoma; he also complained of blurry vision. (Carter Aff. ¶ 20.) After examining Plaintiff's eyes, Carter determined that Plaintiff's "unaided/uncorrected visual acuity in the right eye was 20/25 and his uncorrected distance vision was 20/30 in his left eye." (*Id.* ¶ 21.) He also determined that Plaintiff "had intraocular pressure of 19 in his right eye and 16 in his left eye." (*Id.* ¶ 22.) "A normal range for intraocular pressure (IOP) is under 21." (*Id.* ¶ 23.)

During the visit, Defendant Carter documented that Plaintiff "had glaucoma per history, meaning that [Plaintiff] reported and his records indicated a prior diagnosis." (*Id.* ¶ 24.) In Carter's opinion,

Plaintiff did not have glaucoma at that time and had not had glaucoma since 2003, "as untreated glaucoma would have left him blind during that time." (*Id.* ¶¶ 25–26.) Nevertheless, given Plaintiff's history, Carter recommended that Plaintiff be referred for a visual field test, as well as a pachymetry test, which measures the corneal thickness in the eyes. (*Id.* ¶¶ 27–32.) He also recommended that Plaintiff receive glasses. (*Id.* ¶ 27.)

Plaintiff disputes Defendant Carter's diagnosis and states that his eye pressure reading of 19/16 shows he has glaucoma. (Pl.'s Dep. 20:4–17.) Plaintiff states that medicine labels for glaucoma prescriptions indicate that "once the pressure in your eyes builds up over a 10P . . . you're at extreme risk for glaucoma and nerve damage." (*Id.* at 119:3–18) According to Plaintiff, the "P" in 10P stands for "pressure," and an eye pressure reading of 19/16 stands for 19 "pressure" in the right eye and 16 "pressure" in the left eye.[4] (*Id.*)

[4] The prescriptions to which Plaintiff refers include language such as: "The higher the level of IOP, the greater the likelihood of optic nerve damage and visual field loss." (Pl.'s Resp. to Carter, Ex. A.) Defendant Carter's attorney believes that Plaintiff is most likely reading "IOP" as "10P," as eye pressure is not measured in "pressure (P)." (Def. Carter's Mot. Summ. J. 24, ECF No. 87.) "Normal eye pressure is usually considered to be between 10 and 20 millimeters of mercury (mmHg)." *Dan Gudgel*, Eye Pressure, AM. ACAD. OF

In addition, Plaintiff states that Defendant Carter told him on May 5, 2015, that he had glaucoma. (*Id.* at 18:17–24.) On June 7, 2015, Plaintiff filed a grievance explaining that he was diagnosed with glaucoma in 1997 and that Carter had again diagnosed him with glaucoma during his eye visit. (Pl.'s Resp. to Carter, Ex. D5.) Plaintiff requested treatment for his glaucoma. (*Id.*) The grievance counselor responded, "Per Dr. Carter, 'This patient does not have glaucoma.'" (*Id.*) Plaintiff explains Carter's response by stating that Carter changed his diagnosis when Plaintiff filed a grievance against him. (Pl.'s Dep. 31:4–7.)

Plaintiff next saw Defendant Carter on June 9, 2015, after the visual field test and pachymetry test had been completed. (Carter Aff. ¶ 37.) Carter explained to Plaintiff that the tests were within normal limits. (*Id.*) The results of the Glaucoma Hemifield Test[5] (GHT), which is one part of the visual field test, were within normal

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OPHTHALMOLOGY (Jan. 19, 2018), https://www.aao.org/eye-health/anatomy/eye-pressure.

[5] "The Glaucoma Hemifield Test compares points in the upper field to corresponding points in the lower field and then interprets the results as (a) 'outside normal limits' indicating the upper and lower fields are different and may signify glaucoma, (b) borderline, and (c) within normal limits indicating glaucoma may not exist." Malik Y. Kahook & Robert J. Noecker, *How Do You Interpret a 24-2 Humphrey Visual Field Printout?*, GLAUCOMA TODAY, Nov.–Dec. 2007, at 58, http://glaucomatoday.com/pdfs/GT1107_10.pdf.

limits for each eye. (Med. Rs. 298–99.) After examining Plaintiff, Carter documented that Plaintiff had normal IOP and no visual field defects but that he had "physiological cupping (a larger than average optic nerve)." (Carter Aff. ¶ 38.) "Cupping is present in people with and without optic nerve damage. However, certain aspects of the cupping may suggest a greater risk for glaucoma or optic nerve damage in the future." (*Id.* ¶ 42.) Carter advised Plaintiff that he did not have glaucoma and that no treatment was needed at the time. (*Id.*) Carter, however, assessed Plaintiff as "glaucoma suspect" in both eyes given Plaintiff's prior history and large optic nerve size. (*Id.*) Carter planned to monitor Plaintiff every six months with IOP checks and a repeat visual field test the next year. (*Id.*)

On June 26, 2015, Plaintiff was given glasses. (*Id.* ¶ 39.) Plaintiff, however, does not wear the glasses because they make his eyes and head hurt. (Pl.'s Dep. 23:23–24:14.) On December 1, 2015, Plaintiff saw Defendant Carter again for a follow-up appointment relating to his glaucoma suspect diagnosis. (Carter Aff. ¶ 41.) The pressure in both of Plaintiff's eyes was 16 on that date. (*Id.* ¶ 42.) Carter ordered a repeat visual field test to be scheduled one year from the last test. (*Id.* ¶ 43.)

Plaintiff next saw Defendant Carter on June 7, 2016, at which time the pressure in Plaintiff's eyes was 18 in each eye. (*Id.* ¶ 48.) On July 29, 2016, Plaintiff had a second visual field test. (*Id.* ¶ 52.) On August 2, 2016, Carter discussed the results of the visual field test with Plaintiff. (*Id.* ¶ 54.) The GHT results were again within normal limits for each eye. (Med. Rs. 298–99.) Plaintiff's right eye "was mostly clear and reliable." (Carter Aff. ¶ 54.) Carter noted, however, that Plaintiff's right eye had "some reduced sensitivity inferior,"[6] although Carter's "[o]bservation of the nerve did not show evidence of glaucomatous damage which would appear as notching in the optic nerve." (*Id.* ¶¶ 54–55.) Plaintiff's left eye had a defect, as indicated by "[two] points superior scoring zeros" on the visual field test. (*Id.* ¶ 56.) Carter noted, however, that this result could have been caused by "error or trial lens carrier position." (*Id.*)

To confirm the repeatability of the defects, Defendant Carter recommended another visual field test, which was completed on September 7, 2016. (*Id.* ¶¶ 57–59.) On September 13, 2016, Carter discussed the results of the visual field test with Plaintiff. (*Id.* ¶ 61.)

[6] "Reduced sensitivity inferior denotes that [Plaintiff] did not always recognize lower brightness of lighting during the test." (Carter Aff. ¶ 55.)

The GHT results were within normal limits for the right eye but outside normal limits for the left eye. (Med. Rs. 301–02.) Carter noted that Plaintiff's right eye was "clear and reliable" but that his left eye had a "superior trace defect repeatable from [the] last visual field test." (Carter Aff. ¶ 64.) Carter noted, however, that "no optic nerve changes were seen that matched the suspected defect." (*Id.*) Carter checked Plaintiff's eye pressure, which revealed that the pressure was 17 in Plaintiff's left eye and 16 in his right eye. (*Id.* ¶ 63.) Carter states that these results were within normal limits. (*Id.*) Nonetheless, "[b]ecause there was a suspicious defect," Carter started Plaintiff on Xalatan eye drops as a prophylactic measure to lower the pressure in Plaintiff's eyes. (*Id.* ¶ 65.)

Plaintiff next saw Carter on October 4, 2016, at which time the pressure in Plaintiff's eyes was 11 in the right and 14 in the left. (*Id.* ¶ 67.) "These were within normal limits at the time and lower than pretreatment levels in an appropriate amount." (*Id.*) Carter noted that Plaintiff "was negative for holes, tears or breaks 360 degrees on both eyes." (*Id.*)

During some of the visits with Defendant Carter, Plaintiff complained of pressure behind his eyes. (*Id.* ¶¶ 38, 41, 43, 47.)

Carter advised Plaintiff "to see a medical doctor for his sinus pressure as [Carter is] not licensed to treat any part of the body other than the eyes." (*Id.* ¶ 38.)

In Defendant Carter's professional opinion, Plaintiff "does not currently suffer from glaucoma and did not at the time [he] first saw [Plaintiff]." (*Id.* ¶ 72.) He does not believe that the drops Plaintiff "took at any time caused him to have glaucoma or any other medical condition." (*Id.* ¶ 75.) None of the eye testing "suggests that [Plaintiff] suffers from nerve damage relating to eye pressure or glaucoma." (*Id.* ¶ 81.) "If a patient complains of pressure in the head, this is likely related to an issue outside of the eye and would not be a symptom commonly indicative of glaucoma unless the pressures are over 40–60." (*Id.* ¶ 83.) "Blurry vision is only a symptom in the late stages of glaucoma. It is not a common early symptom." (*Id.* ¶ 84.) "Floating specks are not indicative of glaucoma." (*Id.* ¶ 86.)

C. Facts Related to Defendant Lindorff

Defendant Lindorff has been the administrator of the Health Care Unit at Hill since 2002. (Lindorff Decl. ¶ 1.) Lindorff states that she is "responsible for overseeing the daily operations of the Health

Care Unit, which provides health care services to offenders at Hill . . . ." (*Id.* ¶ 2.) Although she has received medical training, her position is primarily an administrative position. (*Id.* ¶ 3.) She does not provide direct medical care to patients or prescribe medications. (*Id.*) She does "not have the authority to override the professional medical decisions made by an offender's doctors, to refer Plaintiff to an outside specialist, or to order procedures where a doctor has not made such a referral or prescribed such a procedure." (*Id.* ¶ 7.) She does, however, review and respond to grievances submitted by offenders. (*Id.* ¶ 8.) Her "responsibility is to review the offender's medical chart to ensure that the inmate has been seen, is being seen, or will be seen by medical staff, who are responsible for making diagnoses and prescribing specific treatment plans." (*Id.*) She does "not have the authority to alter a patient's diagnosis or treatment plan in response to a grievance or letter that he filed." (*Id.*)

Plaintiff, on the other hand, states that pursuant to IDOC's contract with Wexford, Defendant Lindorff is responsible for supervising "in every aspect . . . the medical director's authority." (Pl.'s Resp. to Sood & Lindorff 36.) He points to the following

language in the contract: "Health Care Unit Administrator: The IDOC employee responsible for supervising the operation and activities of the health care unit at an IDOC center." (Pl.'s Resp. to Sood & Lindorff, Ex. B10.) Plaintiff believes that it was Lindorff's duty "to make sure that [Plaintiff] was getting . . . proper treatment." (Pl.'s Dep. 113:1–3.)

Plaintiff was under Defendant Sood's care from approximately July 2010 until March 2016. (Sood Aff. ¶¶ 11, 62.) Between August 4, 2014 and April 1, 2015, Plaintiff wrote five letters addressed to Defendant Lindorff. (Pl.'s Resp. to Sood & Lindorff, Exs. B12–B16.) In these letters, Plaintiff explained that he had a history of glaucoma and that he sent letters to an eye doctor requesting an appointment but they were ignored. (*Id.*) He listed the conditions he had been experiencing and requested that Lindorff order x-rays and an MRI because he believed he might have cancer or a tumor. (*Id.*) In some of the letters, Plaintiff mentioned that Sood knew about his conditions. (*Id.*)

Defendant Lindorff sent a memorandum to Plaintiff, dated April 3, 2015, in which she stated: "I have reviewed your medical file—Dr. Sood is addressing your health care concerns. He is

discussing your case in collegial review. For your eye issues—please send in a sick call request to see the eye doctor." (Pl.'s Resp. to Sood & Lindorff, Ex. B19.) On April 6, 2015, Plaintiff sent a letter addressed to "Eye Doctor," requesting an eye examination. (Pl.'s Resp. to Carter, Ex. B7.) On May 5, 2015, Plaintiff was seen by Defendant Carter who examined Plaintiff's eyes. (Carter Aff. ¶ 19; Pl.'s Dep. 18:14–16.) On May 24, 2015, Plaintiff wrote another letter to Lindorff, complaining about his eyesight and requesting eye drops to treat his glaucoma. (Pl.'s Resp. to Sood & Lindorff, Ex. B17.) A response was written on the letter: "You are on the list for an onsite visual field [test]—you will receive a call pass. Your glasses have been ordered." (*Id.*) Plaintiff saw Carter on June 9, 2015, to discuss the results of his visual field test and pachymetry test. (Carter Aff. ¶ 37.)

On February 22, 2016, Plaintiff sent a letter to Defendant Lindorff, explaining that he was diagnosed with glaucoma in 1997 and that he used timolol maleate "steroid eye drops" for five years to treat his glaucoma. (Pl.'s Resp. to Sood & Lindorff, Ex. B18.) Plaintiff believes timolol maleate is a steroid because "when [he] read[s] the eye drop labels, they always say 'sterile' . . . [and] [t]hat

was [his] way of saying steroids, because [he] thought sterile means steroids." (Pl.'s Dep. 40:2–7.) Defendant Carter states that "these drops were not steroids." (Carter Aff. ¶ 73.)

In the letter, Plaintiff explained that the "toxic" timolol maleate eye drops cause cancer and tumors, and he listed some of the symptoms he had been experiencing, such as tinnitus and skin pigmentation. (Pl.'s Resp. to Sood & Lindorff, Ex. B18.) Plaintiff requested that Defendant Lindorff order him x-rays and an MRI to diagnose his symptoms. (*Id.*)

D. Facts Related to Defendant Wexford

Plaintiff suggests that whenever inmates are prescribed timolol maleate eye drops, "there should be some kind of policy or optometrist procedure [from Wexford] that allows the optometrist to go in there and see he's not developing any side effects, like glaucoma or, you know, visual field loss or anything or no damage that leads to visual field loss." (Pl.'s Dep. 91:15–92:13.)

Plaintiff also suggests that Defendant Wexford should have the same policies and procedures in place for the ear drops that Defendant Sood prescribed. (*Id.* at 92:3–13.) Plaintiff believes that these ear drops caused or aggravated his glaucoma and other

conditions and symptoms. (*Id.* at 36:14–39:6.) Sood states that he is not aware that the ear drops he prescribed would cause glaucoma or any of the other symptoms Plaintiff believes are related to taking those drops. (Sood Aff. ¶ 74.)

II. SUMMARY JUDGMENT STANDARD

"The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). A movant may demonstrate the absence of a genuine dispute through specific cites to admissible evidence or by showing that the nonmovant "cannot produce admissible evidence to support the [material] fact." Fed. R. Civ. P. 56(c)(1). If the movant clears this hurdle, the nonmovant may not simply rest on his or her allegations in the complaint but instead must point to admissible evidence in the record to show that a genuine dispute exists. *Id.*; *Harvey v. Town of Merrillville*, 649 F.3d 526, 529 (7th Cir. 2011). "In a § 1983 case, the plaintiff bears the burden of proof on the constitutional deprivation that underlies the claim, and thus must come forth with sufficient evidence to create genuine issues of

material fact to avoid summary judgment." *McAllister v. Price*, 615 F.3d 877, 881 (7th Cir. 2010).

At the summary judgment stage, evidence is viewed in the light most favorable to the nonmovant, with material factual disputes resolved in the nonmovant's favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). A genuine dispute of material fact exists when a reasonable juror could find for the nonmovant. *Id.* at 248.

III. ANALYSIS

"Prison officials violate the Eighth Amendment's proscription against cruel and unusual punishment when their conduct demonstrates 'deliberate indifference to serious medical needs of prisoners.'" *Gutierrez v. Peters*, 111 F.3d 1364, 1369 (7th Cir. 1997) (quoting *Estelle v. Gamble*, 429 U.S. 97, 104 (1976)). To succeed on a claim of deliberate indifference to a serious medical need, a plaintiff must satisfy a test that contains both an objective and subjective component. *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). Under the objective component, a plaintiff must demonstrate that his medical condition is sufficiently serious. *Id.* Under the subjective component, the prison official must have acted

with a "sufficiently culpable state of mind." *Id.* In the medical care context, a "deliberate indifference" standard is used. *Estelle*, 429 U.S. at 104.

Treatment decisions made by medical professionals are presumptively valid. *Collignon v. Milwaukee County*, 163 F.3d 982, 989 (7th Cir.1998). "A medical professional is entitled to deference in treatment decisions unless 'no minimally competent professional would have so responded under those circumstances.'" *Sain v. Wood*, 512 F.3d 886, 894–95 (7th Cir. 2008) (quoting *Collignon*, 163 F.3d at 989). To be deliberately indifferent, a medical professional's decision must be "such a substantial departure from accepted professional judgment, practice, or standards, as to demonstrate that the person responsible actually did not base the decision on such a judgment." *Collignon*, 163 F.3d at 989 (quoting *Youngberg v. Romeo*, 457 U.S. 307, 323 (1982)). "[M]edical malpractice in the form of an incorrect diagnosis or improper treatment does not state an Eighth Amendment claim." *Gutierrez*, 111 F.3d at 1374.

A. Defendant Sood

Plaintiff argues that all of his medical conditions are objectively serious. While some of Plaintiff's conditions, such as ear

infections, are objectively serious, some of Plaintiff's conditions, such as headaches, dizziness, and athlete's foot, are arguably not objectively serious. *See, e.g., Henderson v. Sheahan*, 196 F.3d 839, 846 (7th Cir. 1999) (headaches); *Oliver v. Deen*, 77 F.3d 156, 158 (7th Cir. 1996) (dizziness); *Cox v. Hartshorn*, 503 F. Supp. 2d 1078, 1085 (C.D. Ill. 2007) (athlete's foot). The Court, however, need not address the objective seriousness of Plaintiff's medical conditions because Plaintiff cannot show that Defendant Sood acted with deliberate indifference to those conditions. *See Lunsford v. Bennett*, 17 F.3d 1574, 1579 (7th Cir. 1994) ("Where we find that plaintiffs cannot meet the subjective component, we do not address the objective component.").

Plaintiff makes the following arguments to support his claim that Defendant Sood acted with deliberate indifference to his medical needs: (1) Sood prescribed ear drops that caused or aggravated his glaucoma and other conditions; (2) Sood failed to order diagnostic tests, such as x-rays and an MRI, to rule out cancer, tumors, and other serious medical conditions; and (3) Sood did not adequately treat Plaintiff's conditions.

1. Ear drops

Plaintiff argues that Defendant Sood was deliberately indifferent by prescribing him ear drops that caused or aggravated his glaucoma.[7] Plaintiff specifically refers to the neomycin-polymyxin-dexamethasone drops, which Sood states are eye drops that can also be used in the ears. Plaintiff submits a label for the drops, which indicates that the medicine can elevate IOP and possibly cause glaucoma. The label, however, is written with the understanding that the drops will be used in the eyes (even though a doctor may prescribe the drops for alternative uses). Thus, the label on its own is not evidence that placing the drops in the ears can elevate IOP.

Defendants Sood and Carter, who are both licensed to practice medicine, do not believe that the neomycin-polymyxin-dexamethasone drops that Plaintiff used would cause him to have glaucoma. (Sood Aff. ¶ 74; Carter Aff. ¶ 75.) Besides the label,

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[7] Although Plaintiff believes that he has glaucoma, he has not presented any admissible evidence that supports his belief. As will be discussed below when the Court addresses Plaintiff's claim against Defendant Carter, the uncontroverted evidence shows that Plaintiff does not have glaucoma, although he is glaucoma suspect. Plaintiff's argument regarding the ear drops, however, remains the same regardless of whether the ear drops allegedly caused him to have glaucoma or to be glaucoma suspect.

Plaintiff has not presented any evidence (outside his own speculation) that the ear drops prescribed by Sood caused or aggravated his glaucoma (or caused him to be glaucoma suspect).

Plaintiff also has not presented any evidence (again, outside his own speculation) that the other medication prescribed by Defendant Sood caused or aggravated Plaintiff's other medical conditions. Plaintiff presents evidence that the timolol maleate eye drops may cause headaches, hypertension, tinnitus, dizziness, and depression as side effects, but Sood did not prescribe Plaintiff these eye drops. Plaintiff has failed to present any evidence either that the medications prescribed by Sood produce side effects consistent with Plaintiff's conditions or that the medications were the actual cause of Plaintiff's conditions.

Regardless, many medications have side effects, and absent any evidence of recklessness or malicious intent, which Plaintiff has not presented here, a doctor does not act with deliberate indifference when he exercises his professional judgment and prescribes medication to treat an underlying condition, even if that medication has side effects. *See, e.g., McRoy v. Sheahan*, 188 F. App'x 523, 526 (7th Cir. 2006) ("[A]ny side effects that [the plaintiff]

suffered . . . do not suggest that prison officials or medical staff ignored his condition; instead they confirm that [the plaintiff] was treated for his disease."); *Adsit v. Kaplan*, 410 F. Supp. 2d 776, 783 (W.D. Wis. 2006) ("To prevail on this claim, petitioner will have to do more than show that respondent . . . knew the medication would produce negative side effects. It is commonplace for a doctor to prescribe a patient medication that has negative side effects if the patient needs that medication to treat an illness.").

2. Diagnostic tests

Plaintiff argues that Defendant Sood failed to order diagnostic tests, such as hearing tests, x-rays, MRIs, CT scans, or electrocardiography to determine the source of his ear infections, folliculitis, vertigo, tinnitus, ear pain, and headaches. Plaintiff believes he has cancer, a tumor, blocked artery, or some other serious medical condition that has gone untreated and that has caused his symptoms.[8] Plaintiff argues that because Sood did not order diagnostic tests to identify his underlying condition, Sood provided him inadequate treatment.

[8] Plaintiff appears to believe both that the medication he was prescribed caused his symptoms, as well as that he has an underlying condition, such as cancer or a tumor, that is causing the same symptoms.

As the Seventh Circuit has stated, "[a]n MRI is simply a diagnostic tool, and the decision to forego diagnostic tests is 'a classic example of a matter for medical judgment.'" *Pyles v. Fahim*, 771 F.3d 403, 411 (7th Cir. 2014) (quoting *Estelle*, 429 U.S. at 107). In *Jackson v. Kotter*, 541 F.3d 688, 698 (7th Cir. 2008), the defendant-doctor exercised professional judgment in deciding that, based on the plaintiff's account of pain and medical history, an MRI and a referral to an outside specialist were not appropriate. The district court granted summary judgment in the defendant's favor, and the Seventh Circuit affirmed the district court's decision. *Id.*

In the present case, Defendant Sood exercised his professional judgment in determining that it was not necessary to order x-rays, an MRI, or other diagnostic tests to treat Plaintiff's conditions. Although Plaintiff may disagree with Sood's decisions, "a mere disagreement with the course of the inmate's medical treatment does not constitute an Eighth Amendment claim of deliberate indifference." *Snipes v. DeTella*, 95 F.3d 586, 591 (7th Cir. 1996) (quoting *Warren v. Fanning*, 950 F.2d 1370, 1373 (8th Cir. 1991) (internal alterations and quotation marks omitted)).

3. Inadequate treatment

Plaintiff argues that Defendant Sood should have treated his ear pain and ear infections by following the Merck Manual and using suction and cotton wipes to remove debris from his ear first. Assuming this would have been the "proper" way to treat Plaintiff's ear conditions, Plaintiff's claim still cannot succeed. "[M]edical professionals are not required to provide 'proper' medical treatment to prisoners, but rather they must provide medical treatment that reflects 'professional judgment, practice, or standards.'" *Jackson*, 541 F.3d at 697 (quoting *Sain*, 512 F.3d at 895). "There is not one 'proper' way to practice medicine in a prison, but rather a range of acceptable courses based on prevailing standards in the field." *Id.*; *see also Forbes v. Edgar*, 112 F.3d 262, 267 (7th Cir. 1997) ("Under the Eighth Amendment, [an inmate] is not entitled to demand specific care.").

Plaintiff has not presented any evidence that Defendant Sood did not exercise professional judgment when treating Plaintiff's ear conditions or that Sood ignored his complaints. Plaintiff first presented ear complaints to Sood on October 9, 2012, at which time Sood diagnosed Plaintiff with otitis externa. After Sood prescribed a

regimen of various medications, Plaintiff's ear infection had completely resolved by April 25, 2013. When Plaintiff again complained about his ear on February 26, 2014, August 5, 2014, and June 17, 2015, Sood examined Plaintiff each time and either found no infection or prescribed Plaintiff ear drops for his infection. On September 15, 2015, Plaintiff's ear canal was clear. This evidence shows that Sood was not deliberately indifferent to Plaintiff's ear conditions.

The evidence also does not show that Defendant Sood resorted to an easier course of treatment he knew to be ineffective. *See Johnson v. Doughty*, 433 F.3d 1001, 1013 (7th Cir. 2006). Rather, the medical records reveal that Sood changed medications and altered dosages when Plaintiff complained that Sood's treatment was not working.

Plaintiff also argues that Defendant Sood should have monitored the nurse's treatment of his athlete's foot and skin pigmentation. However, "individual liability under § 1983 requires 'personal involvement in the alleged constitutional deprivation.'" *Minix v. Canarecci*, 597 F.3d 824, 833 (7th Cir. 2010). Sood cannot

be held liable under the doctrine of respondeat superior. *See Antonelli v. Sheahan*, 81 F.3d 1422, 1428 (7th Cir. 1996).

After reviewing Plaintiff's medical records, the Court finds no evidence that Defendant Sood acted with deliberate indifference to any of Plaintiff's medical needs. The medical records reveal that Sood addressed Plaintiff's complaints and exercised professional judgment in treating Plaintiff's conditions. "What we have here is not deliberate indifference to a serious medical need, but a deliberate decision by a doctor to treat a medical need in a particular manner." *Snipes*, 95 F.3d at 591. Therefore, the Court finds that no rational juror could conclude that Defendant Sood acted with deliberate indifference to Plaintiff's medical needs.

B. Defendant Carter

Plaintiff believes that he has had glaucoma since 1997. He argues that when Defendant Carter first saw Plaintiff on May 5, 2015, he diagnosed Plaintiff with glaucoma. Plaintiff argues that Carter changed his diagnosis after Plaintiff filed a grievance against him. As a result, Carter did not treat Plaintiff's glaucoma and did not prescribe medication to lower his eye pressure until September 13, 2016, after Carter had diagnosed Plaintiff as glaucoma suspect.

Glaucoma is an objectively serious medical condition. *See Flournoy v. Ghosh*, 881 F. Supp. 2d 980, 987 (N.D. Ill. 2012). However, the parties dispute whether Plaintiff has glaucoma. In Defendant Carter's professional opinion, Plaintiff does not currently suffer from glaucoma, did not suffer from glaucoma when he first saw Plaintiff, and has not suffered from glaucoma since 1997. Carter is entitled to deference in his diagnosis unless "no minimally competent professional would have so responded under those circumstances." *Collignon*, 163 F.3d at 989.

Plaintiff argues that his eye pressure reading of 19/16 shows he has glaucoma. He cites to *Flournoy* to support his argument. In *Flournoy*, the court explained, "'Intraocular pressure' is the fluid pressure inside the eye, measured in millimeters of mercury. The average intraocular pressure in the population is 10–12 mmHg, and the high limit of average is 21 mmHg." 881 F. Supp. 2d at 982. Plaintiff focuses on the 10–12 range and argues that 19/16 is far outside that range. He ignores, however, the court's explanation that 21 mmHg still falls within the average IOP in the population, albeit at the high limit. This is consistent with Defendant Carter's testimony that a normal IOP reading is under 21.

Moreover, in *Flournoy*, the plaintiff was diagnosed as "glaucoma suspect" when the pressure was 20 in each eye. *Id.* In the present case, Plaintiff's eye pressure ranged from 16 to 19, and Defendant Carter diagnosed Plaintiff as glaucoma suspect. *Flournoy* does not suggest that Carter's assessment was incorrect or otherwise outside the standard of care.

Plaintiff states that Defendant Carter prescribed Xalatan eye drops to reduce the pressure in Plaintiff's eyes only after Plaintiff filed this lawsuit and at a time when the pressure in Plaintiff's eyes was at its lowest. Plaintiff's eye pressure readings are as follows: 19/16 (May 5, 2015); 16/16 (December 1, 2015); 18/18 (June 7, 2016); and 16/17 (September 13, 2016, the date Carter prescribed Xalatan). Plaintiff argues this is evidence of deliberate indifference because if Carter thought it necessary to prescribe him eye drops when his IOP was 16/17, then Carter should have prescribed him those drops when his IOP was 19/16.

While Plaintiff's logic is sound, he overlooks an important fact: Carter did not primarily base his decision to prescribe Plaintiff Xalatan on Plaintiff's IOP; rather, Carter only prescribed Plaintiff Xalatan after he determined there was a suspicious defect in

Plaintiff's left eye. Plaintiff has not produced any evidence that shows the timing of Carter's decision to prescribe Xalatan was a substantial departure from accepted professional judgment or that Carter did not base his decision on professional judgment.

Finally, Plaintiff argues that Defendant Carter acted with deliberate indifference when Carter failed to see Plaintiff after Plaintiff wrote him letters on April 20, 2014, and November 2, 2014. It was not until after Plaintiff's third letter, written on April 6, 2015, that Carter first saw Plaintiff on May 5, 2015.

The un-contradicted evidence in the record, however, does not support an inference of deliberate indifference. First, Plaintiff's letters were addressed to "Eye Doctor," not "Dr. Carter," and there is no evidence that Carter received the letters. Second, Carter is an independent contractor who is not involved in collecting grievances directly from inmates. Plaintiff disputes this fact, however, by pointing to Defendant Lindorff's memorandum, in which she stated, "For your eye issues—please send in a sick call request to see the eye doctor." (Pl.'s Resp. to Sood & Lindorff, Ex. B19.) Plaintiff argues this is evidence that Carter receives inmate requests for eye care. The Court finds this argument unpersuasive. The memorandum

simply informed Plaintiff to send a sick call request to see the eye doctor, not to send a request directly to the eye doctor.

Nonetheless, even assuming that Defendant Carter received the letters, Plaintiff's argument still does not succeed. Plaintiff is essentially arguing that Carter caused a delay in his treatment. "A delay in treatment may constitute deliberate indifference if the delay exacerbated the injury or unnecessarily prolonged an inmate's pain." *McGowan v. Hulick*, 612 F.3d 636, 640 (7th Cir. 2010). Plaintiff has not presented any evidence that the delay in seeing Carter caused him harm.

Therefore, for all these reasons, the Court finds that no rational juror could conclude that Defendant Carter acted with deliberate indifference to Plaintiff's medical needs.

C. Defendant Lindorff

Plaintiff argues that Defendant Lindorff was deliberately indifferent to his medical needs by failing to respond to letters he wrote to her about his conditions and his need to see an eye doctor. Between August 4, 2014, and December 2, 2014, Plaintiff wrote Lindorff four letters, all of which went unanswered. Lindorff, however, responded on April 3, 2015, to Plaintiff's April 1, 2015,

letter, in which she explained that Dr. Sood was addressing Plaintiff's health care concerns and that Plaintiff had to send in a sick call request to see an eye doctor. After Plaintiff sent another letter on April 6, 2015, addressed to "Eye Doctor," Defendant Carter saw Plaintiff on May 5, 2015, and thereafter treated Plaintiff's eye conditions.

Essentially, Plaintiff's claim against Defendant Lindorff is that she caused a delay in his treatment. First, Plaintiff does not present any evidence that Lindorff received the letters that went unanswered. Second, even assuming Lindorff received the letters, Plaintiff's claim still fails. As discussed above, in cases where prison officials delay rather than deny medical treatment, the inmate must offer verifying medical evidence that the delay caused the inmate harm. *Williams*, 491 F.3d at 714–15. Again, Plaintiff has not presented any such evidence.

Plaintiff also argues that Lindorff was deliberately indifferent by not sending him out for x-rays or an MRI to diagnose his potential cancer or tumors. "Claims of deliberate indifference to medical needs are examined differently depending on whether the defendants in question are medical professionals or lay persons."

McGee v. Adams, 721 F.3d 474, 481 (7th Cir. 2013). A non-medical defendant cannot be held liable for deliberate indifference simply because she "failed to respond directly to the medical complaints of a prisoner who was already being treated by the prison doctor." *Johnson*, 433 F.3d at 1012; *see also Greeno v. Daley*, 414 F.3d 645, 655 (7th Cir. 2005) (declining to hold complaint examiner liable for failing to "remedy the medical defendants' failure to provide appropriate treatment").

While Defendant Lindorff has received medical training, she serves in an administrative position at Hill. Lindorff states that she does not provide direct medical care to patients and she does not have the authority to override medical decisions made by doctors. The evidence Plaintiff presents, such as IDOC's contract with Wexford, does not contradict her testimony. When Plaintiff wrote the letters to Lindorff, he was under Defendant Sood's care. In Sood's professional opinion, an MRI was not necessary for any of the conditions for which he was treating Plaintiff. On April 3, 2015, Lindorff responded to Plaintiff's letter and informed him that Sood was addressing his health concerns. Lindorff was entitled to rely on

the treatment decisions made by Sood, and therefore, she cannot be held liable for deliberate indifference.

Finally, Plaintiff argues that Defendant Lindorff was grossly negligent in managing her subordinates, which caused him to receive inadequate medical care. Outside of Plaintiff's conclusory allegation, Plaintiff presents no evidence that Lindorff "knew of a constitutional deprivation and approved it, turned a blind eye to it, failed to remedy it, or in some way personally participated." *Vance v. Peters*, 97 F.3d 987, 994 (7th Cir. 1996). Lindorff cannot be held liable under the doctrine of respondeat superior. *See Antonelli*, 81 F.3d at 1428.

D. Defendant Wexford

Plaintiff argues that Defendant Wexford should have a policy in place to ensure that doctors monitor inmates whenever they prescribe inmates the eye drops and ear drops that Plaintiff was prescribed. "[T]he *Monell* theory of municipal liability applies in § 1983 claims brought against private companies that act under color of state law." *Whiting v. Wexford Health Sources, Inc.*, 839 F.3d 658, 664 (7th Cir. 2016); *see also Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 98 S. Ct. 2018 (1978). "[T]o maintain a viable § 1983 action

against a [private corporation], a plaintiff must demonstrate that a constitutional deprivation occurred as the result of an express policy or custom of the [corporation]." *Jackson v. Ill. Medi-Car, Inc.*, 300 F.3d 760, 766 (7th Cir. 2002); *see also Iskander v. Forest Park*, 690 F.2d 126, 128 (7th Cir. 1982) (applying § 1983 to private corporations). If a plaintiff fails to prove the existence of a constitutional violation, then that failure precludes a determination that the private corporation caused a constitutional injury to the plaintiff. *Jackson*, 300 F.3d at 766; *see also Pyles*, 771 F.3d at 407, 412 (holding that the defendant, a private corporation, could not be held liable for its alleged "policy of limiting the medical care it provides in order to cut costs" because there was no underlying constitutional violation).

Plaintiff's claim against Wexford fails for two reasons. First, Plaintiff is not arguing that Wexford has a policy in place that caused him a constitutional deprivation. Rather, he is arguing that they *should* have a policy in place, which is to provide adequate monitoring of inmates who are prescribed medicine. Liability, however, is only imposed on corporations that have an *express* policy that causes a constitutional deprivation.

Second, as discussed thoroughly above, Plaintiff has not presented any evidence of an underlying constitutional violation. The evidence Plaintiff presents shows that he received adequate medical treatment. Therefore, the Court finds that no rational juror could conclude that Defendant Wexford is liable under § 1983 and *Monell.*

E. Plaintiff's Request for a Mandatory Injunction

In his complaint, Plaintiff seeks an injunction ordering Defendants to send him to an outside hospital to have x-rays and an MRI taken of his full body. Mandatory injunctions "are ordinarily cautiously viewed and sparingly issued." *Graham v. Med. Mut.*, 130 F.3d 293, 295 (7th Cir. 1997) (quoting *Jordan v. Wolke*, 593 F.2d 772, 774 (7th Cir. 1978)). To prevail, Plaintiff must show that Defendants decided to forego the diagnostic tests he seeks without exercising the appropriate professional judgment, or, in other words, that not ordering the tests is "blatantly inappropriate." *Pyles*, 771 F.3d at 409. Although Plaintiff presents some evidence that medical professionals may use MRIs or other tests to diagnose conditions similar to his, he has not provided any evidence showing

that these tests are medically necessary in his case. Therefore, Plaintiff's request for a mandatory injunction is denied.

F. Plaintiff's Request for Copies

On February 12, 2018, Plaintiff filed a motion requesting courtesy copies of his complaint and his responses to Defendants' motions for summary judgment. (Pl.'s Mot., ECF No. 119.) Plaintiff was advised in the Court's August 26, 2016, scheduling order that he was responsible for making and keeping his own copies. (Order ¶ 25, ECF No. 24.) If Plaintiff desires copies of any document in the record, he must pay the copying fee of ten cents per page up front. (*Id.*)

In his motion, Plaintiff also requests copies of "any motion recently filed by Dr. Sood and Dr. Carter for preliminary injunction." (Pl.'s Mot.) Defendants Sood and Carter, however, have not filed a motion for preliminary injunction recently. Plaintiff states that he received a notification on February 2, 2012, informing him about a preliminary injunction that was filed. Plaintiff also references docket entry number 114, which is a letter Plaintiff filed on January 18, 2018, that the Clerk of the Court construed as a

motion for preliminary injunction. The Court ruled on Plaintiff's motion on February 2, 2012.

To the extent Plaintiff is requesting courtesy copies of the complaint, responses, and January 18, 2018, letter he filed, Plaintiff's motion is denied. However, Plaintiff's motion is granted to the extent he is requesting a copy of the Court's February 2, 2018, order, which he appears not to have received.

IT IS THEREFORE ORDERED:

1) **Defendant Carter's motion for summary judgment [87], Defendant Sood and Wexford's motion for summary judgment [89], and Defendant Lindorff's motion for summary judgment [95] are all GRANTED pursuant to Federal Rule of Civil Procedure 56.**
2) **The Clerk of the Court is directed to enter judgment in favor of Defendants and against Plaintiff. The case is terminated, with the parties to bear their own costs. All deadlines and internal settings are vacated. All pending motions not addressed in this Order are denied as moot. Plaintiff remains responsible for any unpaid balance of the filing fee.**
3) **Plaintiff's request for a mandatory injunction [1] is DENIED.**
4) **Plaintiff's motion to supplement his response [107] is GRANTED. The Court has treated his response as a sur-reply to Defendant Carter's reply.**
5) **Plaintiff's motion for copies [119] is GRANTED in part and DENIED in part. Plaintiff motion is denied to the extent he is requesting courtesy copies of the complaint, responses, and January 18, 2018, letter he filed but is granted to the extent he is requesting a copy of the Court's February 2, 2018, order. The Clerk of the Court is directed to send**

Plaintiff another copy of the Court's February 2, 2018, order.

6) **If Plaintiff wishes to appeal this judgment, he must file a notice of appeal with this Court within 30 days of the entry of judgment. Fed. R. App. P. 4(a)(4). A motion for leave to appeal in forma pauperis MUST identify the issues Plaintiff will present on appeal to assist the Court in determining whether the appeal is taken in good faith. *See* Fed. R. App. P. 24(a)(1)(c); *see also Celske v Edwards*, 164 F.3d 396, 398 (7th Cir. 1999) (stating that an appellant should be given an opportunity to submit a statement of his grounds for appealing so that the district judge "can make a reasonable assessment of the issue of good faith"); *Walker v O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000) (providing that a good faith appeal is an appeal that "a reasonable person could suppose . . . has some merit" from a legal perspective). If Plaintiff does choose to appeal, he will be liable for the $505.00 appellate filing fee regardless of the outcome of the appeal.**

ENTERED: March 8, 2018.

FOR THE COURT:

s/Sue E. Myerscough
SUE E. MYERSCOUGH
UNITED STATES DISTRICT JUDGE

Additional material from this filing is available in the Clerk's Office.