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APPENDIX

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
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NOTICE OF ISSUANCE OF MANDATE

May 26, 2020

To: Thomas G. Bruton
UNITED STATES DISTRICT COURT
Northern District of Illinois
Chicago , IL 60604-0000

No. 19-2893	CEZARY WOJCIK, Plaintiff - Appellant v. COOK COUNTY, ILLINOIS, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 1:14-cv-04854 Northern District of Illinois, Eastern Division District Judge John J. Tharp	

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

RECORD ON APPEAL STATUS: No record to be returned

NOTE TO COUNSEL:
If any physical and large documentary exhibits have been filed in the above-entitled cause, they are to be withdrawn ten (10) days from the date of this notice. Exhibits not withdrawn during this

period will be disposed of.

Please acknowledge receipt of these documents on the enclosed copy of this notice.

Received above mandate and record, if any, from the Clerk, U.S. Court of Appeals for the Seventh Circuit.

Date: **Received by:**

_____ _____

form name: **c7_Mandate**(form ID: **135**)

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APPENDIX

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

May 15, 2020

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

AMY C. BARRETT, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 19-2893

CEZARY WOJCIK,
Plaintiff-Appellant,

v.

COOK COUNTY, *et al.*,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 14-CV-4854

John J. Tharp, Jr.,
Judge.

ORDER

On consideration of the petition for rehearing, the judges on the original panel have voted to deny rehearing. It is, therefore, **ORDERED** that the petition for rehearing is **DENIED.**

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Case: 19-2893 Document: 00713618492 Filed: 05/26/2020 Pages: 3

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted April 29, 2020*
Decided April 29, 2020

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

AMY C. BARRETT, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 19-2893

CEZARY WOJCIK,
Plaintiff-Appellant,

v.

COOK COUNTY, *et al.*,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 14-CV-4854

John J. Tharp, Jr.,
Judge.

ORDER

Despite a state court's order that Cezary Wojcik serve his jail sentence at a health center where he could receive treatment for his health conditions (which include seizures, diabetes, Parkinson's disease, and Alzheimer's disease), officials at Cook County Jail placed him in general population and failed to provide him his medications. Wojcik sued Cook County, the county sheriff, and several prison officials for the mix-up, contending that they ignored his serious medical needs in violation of the Eighth

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* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. *See* FED. R. APP. P. 34(a)(2)(C).

Amendment. But the district court entered summary judgment for the defendants, concluding that none knew about the court's order or deliberately ignored Wojcik's medical needs. We affirm.

Wojcik was convicted in an Illinois state court in 2013 of driving under the influence, 625 ILCS 5/11-501, and sentenced to 10 days' imprisonment. Because of Wojcik's health issues, the court ordered that he serve his sentence at Cermak Memorial Hospital, a health center located within Cook County Jail. The court also attached two letters to its sentencing order: One from Wojcik's doctor, listing the medications that Wojcik needed, and one from Wojcik's lawyer, explaining the importance of Wojcik receiving his medication. The court's sentencing order referred to Wojcik by both his real name and the alias he was using at the time, "Anthony Avado."

Before Wojcik left the courthouse, Sheriff's Deputy Steve Kaloudis processed him by taking his name and creating a jail identification number. Because Wojcik provided his alias (Anthony Avado), only that name appeared on his jail intake forms. Wojcik was carrying copies of the letters from his doctor and lawyer, as well as a copy of the court's order placing him at Cermak, but Kaloudis took these documents and sealed them in a plastic bag with the rest of Wojcik's property. Another deputy brought Wojcik and his property to Cook County Jail.

When Wojcik arrived at the jail, he told an (unidentified) officer about his sentencing order and health issues. He was nonetheless placed in general population. (The record does not indicate who placed Wojcik there.) Wojcik told several members of the medical staff that he needed medication, and the staff tried to diagnose him and provide treatment. But because Wojcik had been admitted under his alias, they were unable to verify his prescriptions with his pharmacist or find them in the Illinois Controlled Substance Database.[1] Wojcik remained in jail for four days without access to his medications. (He was released early after receiving good-time credit.) Upon his release, he was experiencing shortness of breath, an abnormal heartbeat, and difficulty walking.

Wojcik brought this deliberate-indifference suit against Cook County, the Cook County Sheriff, the deputies who processed him at the courthouse and transported him

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[1] Under its prescription monitoring program, the Illinois Department of Health Services maintains a database of current prescriptions for controlled substances issued in the state. *See* ILLINOIS PRESCRIPTION MONITORING PROGRAM, https://www.dhs.state.il.us/page.aspx?item=97345 (last visited April 22, 2020).

to jail, and the medical professionals at the jail. 42 U.S.C. § 1983. He argued that the deputies failed to provide the sentencing order to jail officials, and that the medical staff failed to provide him his needed medication.

The district court entered summary judgment for the defendants. The court determined that, although Wojcik could show that he had serious medical needs that jail officials did not treat, none of the named defendants was responsible for this oversight. The court explained that no evidence supported Wojcik's allegation that the deputies who processed him at the courthouse and transported him to the jail failed to present the sentencing order to jail officials. Nor had Wojcik adduced evidence that any of the medical defendants violated the Eighth Amendment by intentionally disregarding his medical needs. Although the court acknowledged that several defendants "could, perhaps, have done more to ferret out Wojcik's need for medications," it concluded that it was "plain that the fundamental cause of the problem" in verifying Wojcik's medications was his use of an alias that differed from the name in which his prescriptions had been ordered.

On appeal, Wojcik spotlights his claim against Kaloudis, the deputy who processed him at the courthouse and who, Wojcik maintains, took his copy of the sentencing order and placed it with the rest of his property. But Wojcik does not point to any evidence showing that Kaloudis stopped the order from arriving at the jail or caused jail officials to ignore it. Only someone personally responsible in a constitutional violation can be held liable under § 1983. *Wilson v. Warren Cty., Illinois*, 830 F.3d 464, 469 (7th Cir. 2016). And it is undisputed that Kaloudis's involvement ended when Wojcik left the courthouse. Another deputy picked up Wojcik and brought him to the jail. Even on appeal, Wojcik does not dispute that the deputy who transported him also brought his property to the jail, including the court's order.

Wojcik also asserts, for the first time, that Kaloudis disobeyed the state court's directive that both his name and alias appear on the jail intake forms and that he be allowed to carry the sentencing order on his person. But Wojcik provides no evidence that the court issued these orders and, regardless, litigants may not present on appeal evidence or arguments that they did not present to the district court. *See Puffer v. Allstate Ins. Co.*, 675 F.3d 709, 718 (7th Cir. 2012).

We have considered Wojcik's additional arguments, and none has merit.

AFFIRMED

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APPENDIX

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

CEZARY WOJCIK,

Plaintiff,

Vs.

COUNTY OF COOK, PAUL SKRIVAN, DAWN HOWELL, REBECCA MASI, DRUCILLA KILGORE individually, SHERIFF'S DEPUTY KALOUDIS, SHERIFF'S DUTY ALI, and COOK COUNTY SHERIFF THOMAS DART, in his Official capacity.

Defendants

Appellate Case No: 19-2893

Appeal From The United States District Court
For the Northern District of Illinois Eastern Division,
Case No. 14-CV-4854
The Honorable Judge John J. Tharp, Jr.

BRIEF AND REQUIRED SHORT APPENDIX OF
PLAINTIFF-APPELLANT, CEZARY WOJCIK – PRO SE

Plaintiff on Appeal
For appellant(s) filing this statement
Name: Cezary Wojcik
Address: 1634 N. Milwaukee Ave Chicago IL, 60647
Telephone: 773-414-0471
Email: anna.anna909@yahoo.com

BACKGROUND

1. On June 27th 2013, Cook County Judge by agreement between Plaintiff Attorney Kent R Brody and county prosecutor severed time 10 days in CCJ Cermak Memorial Hospital to connected case # 11 CR 15230 (EX # 6 Northern District case 14 CV 4854).
2. Cook County Judge S. Sullivan acknowledged that the plaintiff used legal name Anthony Avado A/K/A Cezary Wojcik, both names were granted by Judge Sullivan and were used in the case. The judge also admitted in the case that Cezary Wojcik was disabled and had a serious medical issue. Indeed, plaintiff's attorney admitted that Anthony Avado A/K/A Cezary Wojcik is to be assigned to the Cermak Memorial Hospital for his period of incarceration. (EX # 7, 20, 21 Northern District case 14 CV 4854).
3. During the sentence in court, the plaintiff did not say any words or could not express anything to anyone at all. Documents were recognized and approved by the judge.
4. In the courtroom procedure from the beginning was present officer's star #10835 believed to be a Deputy Steve Kaloudis-ARRESTING OFFICER PRINT- was not (EX # 1 Northern District case 14 CV 4854), who was there to make sure all of Judge Sullivan's orders will be implemented accordingly, but that was never in his mind. Judge's orders are absolute, and everyone, including the Sheriff Deputy and county employees, is to comply.
5. Plaintiff's Attorney Kent R. Brody asked the judge for a copy of the order to hand over to Anthony Avado A/K/A Cezary Wojcik for the record to show in CCJ arrival and future processing that everyone must obey judge's orders. After assigning the order, the Judge

gave a copy to the attorney and plaintiff received the copy from the attorney. Deputy Steve Kaloudis also retrieved a full copy of the Judge's orders.

6. After the plaintiff received a copy of all orders, Deputy S. Kaloudis escorted plaintiff to the holding cell where he started the intake process.

7. Deputy S. Kaloudis took all of the copies of the Judge's orders, including the plaintiff's copy, placed them in a plastic bag, and sealed the bag (picture 1, 2 Northern District case 14 CV 4854) which was a disobedience of the Judge's orders. It was Deputy S. Kaloudis's premeditated action to deliberately remove the copies of the order from the plaintiff's possession. This was a core facet of the matter, along with fundamentally significant irregularities, that triggered an avalanche and the inventible consequences to the plaintiff.

8. The plaintiff was trying to convince Deputy S. Kaloudis to obey and adopt Judge Sullivan's orders to leave all signed documents with the plaintiff for further processing in CCJ. However, Deputy S. Kaloudis insisted that he would not do so. Deputy S. Kaloudis stated, "The court belongs to Judge and his rules, but the holding cell is my house and my rules." In addition, the Deputy was sinister to the plaintiff and belligerent by stating, "Shut the fuck up!" The plaintiff was intimidated but was subsequently urging the deputy to provide both names Anthony Avado and Cezary Wojcik, as the Judge ordered, during processing, but Deputy S. Kaloudis disregarded and denied using both names. Instead, Deputy S. Kaloudis used only one name, Anthony Avado (EX 1 Northern District case 14 CV 4854). Proof shows that all sheriff's documents erased the name Cezary Wojcik and was not used.

9. The plaintiff was horrified and appalled at what inevitably would happen. Indeed, after the plaintiff was moved to a different holding cell his name Cezary Wojcik diminished only to Anthony Avado. Consequently, other deputies and Cook County employees were disquietingly not upholding the judge's orders of using both names to help obtain all of the plaintiff's medical records.

10. Due to the arrogant attitude of deputies and Cook County employees, the plaintiff was undeniably entered as Anthony Avado only (Pic 1, 2 Northern District case 14 CV 4854). On arrival in CCJ, the plaintiff was assigned to general population division 2 (EX 2, 3 Northern District case 14 CV 4854). The plaintiff, on several occasions, tried to engage the deputies and employees to adopt the judge's orders to use the second name (Cezary Wojcik) with no success due to their abuse of power and disregard to law.

11. On June 28th 2013, the plaintiff's attorney anticipated what could happen and checked if inmate housing was upheld accordingly to the judge's orders. The plaintiff's attorney went to CCJ complex and discovered what happened, the plaintiff was housed only under the name Anthony Avado in the general population division 2 (08-4H-4-D6), and not in Cermak Hospital, without medical needs being met (ATT. 1). The plaintiff's attorney was trying to correct the negligence and disobedience with no success. Due to these actions, attorney Kent Brody agreed to participate in the anticipated trial as a witness.

12. All these explicit facts express exceptionally obstruction of justice, and Deputy S. Kaloudis should be held in contempt.

13. In the original sentence provided by Judge Sullivan, the plaintiff was given 18 months probation, but on May 15th 2014 (ATT. 2) when Judge Sullivan received the report for

how the sentence was carried out, the judge dismissed the remaining probation time so that the plaintiff can handle the remaining medical needs out of the country.

CONCLUSION

In Judge John J. Tharp Jr's opinion, on page 15, "What the record in this case establishes is that Judge Sullivan's order that Wojcik serves his time in the Cermak Hospital and that he be administered his prescription drugs was not carried out. **That is unfortunate.** The failure does not, however, mean that any defendant named in the suit violated Wojcik's constitutional rights by recklessly disregarding Wojcik's serious medical condition. Others- the CCJ intake officer, for example- may have been aware of Judge Sullivan's order and the need to ensure that his prescription medication was administered, but the **plaintiff has not identified them.** And several of the defendants could, perhaps, have done more to ferret out Wojcik's need for medication, but no reasonable jury could, on this record, conclude that any of the named defendants were recklessly indifferent to Wojcik's medical needs expressed in his mittimus or otherwise." Judge Tharp contradicted himself in his opinion on page 2 writing, "Defendant **Sheriff's Deputy Steve Kaloudis processed Wojcik** at the courthouse and placed Judge Sullivan's order with the doctor's letter in a plastic bag along with Wojcik's other property. Wojcik was not allowed to personally carry the plastic bag with him to CCJ, but the plastic bag was processed by CCJ and held there until Wojcik was released on June 30." The plaintiff still has the original copies of Judge Sullivan's orders sealed in the processing bag provided by Deputy Kaloudis in his possession.

Unfortunately, too many people like myself are victims of a broken and corrupted system. Judge John J. Tharp Jr's only assumption and perception were that the

plaintiff would not win the case with a jury. Instead, all presented documents are undeniable proof that by Sheriff's Deputy Steve Kaloudis disobeying Judge Sullivan's order created a chain reaction and collapsing of legal rights. The only way to correct this negligence and not adjusting to constitutional rights is litigation. During this litigation process, on May 26th 2017, the plaintiff reported to the judge his intention to video the deposition against the defendant deputy and employees. The defendant's attorney then denied the deposition through deceptive action. On July 6th 2017, the judge stated that the plaintiff can motion to compel the defendant's deposition. On August 17th 2017, the judge denied the plaintiff's motion to compel. As a pro se, the entire time, the plaintiff was supervised by pro se program attorney, and they saw the bias in this case by rejecting and denying the plaintiff's many motions. Nevertheless, the attorneys guided the plaintiff through a difficult process and observed a lack of fairness and justice. Indeed, the plaintiff does not have the power to access the court system to review documents; the only way to review the documents within the court system is to utilize the attorneys from the pro se program. A big contrast is that, the defendant did not present any documents with a different sentence order from Judge Sullivan that would have allowed for their actions. The plaintiff had sufficient corroborating evidence; however, he never received an opportunity to present this case in front of a jury because of Judge Tharp's decision, to close the case before trial. The plaintiff was put in a losing position since the defendant's attorney was tampering with evidence, was altering documents, had inconsistencies in their evidence, and credentials were not valid because of enormous incompatibilities.

Overwhelming and devastating fact, in this case, is the fact that the defendants do not have any supporting documents from the Cook County case. The platform the

defendants used his **own deposition** of its deputy and employees and arguing to the plaintiff's documents of the fact. The plaintiff was never notified by anyone, attorney or court, of the defendant's **own deposition** when and where took the place. However, the plaintiff requested that the defendant's deposition was denied.

Such huge institutional machines do not recognize rules and law by breaking them daily and hiding behind the backs of big law firms. Penalties imposed by Judge Sullivan must be followed by everyone. The plaintiff is a pro se entity and is humbly pleading without prejudice that this is taken into account when reviewing to allow for this case to go to trial by the doctrine of law.

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Cases

Estelle v. Gamble, 429 U.S. 97 (1976)

Ruling: Deliberate indifference to serious medical needs of prisoners can cause cruel and unnecessary pain, which is prohibited by the Eighth Amendment to the Constitution.

Michael Parish, at v. Sheriff of Cook County and Cook County, Illinois case 07-CV-4369

Michael Parish and eleven other plaintiffs have sued the Sheriff of Cook County and Cook County for damages under 42 U.S.C. § 1983. Plaintiffs allege that the defendants maintained a policy or practice of deliberate indifference to their serious medical needs and thus violated their Fourteenth Amendment rights while they were confined at the Cook County Jail (CCJ). Plaintiffs have moved to certify a class action pursuant to Federal Rule of Civil Procedure 23(b)(3). For the reasons stated below, the Court grants plaintiffs' motion

Statutes

42 U.S. Code § 12102

Definition of disability

(1) Disability term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;"

42 U.S.C. § 12101

The Americans with Disabilities Act of 1990 or ADA (42 U.S.C. § 12101) is a civil rights law that prohibits discrimination based on disability. It affords similar

protections against discrimination to Americans with disabilities as the Civil Rights Act of 1964, [1] which made discrimination based on race, religion, sex, national origin, and other characteristics illegal. In addition, unlike the Civil Rights Act, the ADA also requires covered employers to provide reasonable accommodations to employees with disabilities, and imposes accessibility requirements on public accommodations

42 U.S.C. §§ 12131–12165

Title II—public entities (and public transportation)

Title II prohibits disability discrimination by all public entities at the local level, e.g., school district, municipal, city, or county, and at state level. Public entities must comply with Title II regulations by the U.S. Department of Justice. These regulations cover access to all programs and services offered by the entity. Access includes physical access described in the ADA Standards for Accessible Design and programmatic access that might be obstructed by discriminatory policies or procedures of the entity.

Title II applies to public transportation provided by public entities through regulations by the U.S. Department of Transportation. It includes the National Railroad Passenger Corporation (Amtrak), along with all other commuter authorities. This section requires the provision of paratransit services by public

entities that provide fixed-route services. ADA also sets minimum requirements for space layout in order to facilitate wheelchair securement on public transport. [20] Title II also applies to all state and local public housing, housing assistance, and housing referrals. The Office of Fair Housing and Equal Opportunity is charged with enforcing this provision.

ADA Title II: State and Local Government Activities

Title II requires state and local governments, regardless of the entity's size or receipt of federal funding, to provide an equal opportunity to the disabled to benefit from all of their programs, services, and activities (e.g. public education, recreation, health care, social services).

State and local governments must follow architectural standards in the new construction, must relocate programs or provide access in inaccessible older buildings, and must communicate effectively with people with various disabilities. They are required to make reasonable necessary modifications, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity, or would result in undue financial and administrative burden.

(18 U.S.C. 2340A)

Section 2340A of Title 18, United States Code, prohibits torture committed by public officials under color of law against persons within the public official's custody or control. Torture is defined to include acts specifically intended to inflict

severe physical or mental pain or suffering. (It does not include such pain or suffering incidental to lawful sanctions.) The statute applies only to acts of torture committed outside the United States. There is Federal extraterritorial jurisdiction over such acts whenever the perpetrator is a national of the United States or the alleged offender is found within the United States, irrespective of the nationality of the victim or the alleged offender.

Prisoner's Rights

1. Everyone is entitled to their civil rights, including prisoners. Unfortunately, many forms of civil rights abuses do occur in prisons. Common prisoner rights violations include:

2. Holding prisoners in outdated prisons that are unsanitary or unsafe

3. The sexual harassment or assault of prisoners by prison guards

4. Preventing a prisoner from complaining about prison conditions to outside parties, such as the courts

5. Punishing a prisoner for complaining about the prison to outside parties

6. Subjecting a prisoner to torture or other forms of cruel and unusual punishment

7. Denying a prisoner medical attention, or providing inadequate medical attention or facilities

Disabled Prisoners' Rights

Disabled prisoners' rights are protected under §504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act. The Rehabilitation Act is applicable to facilities managed by federal agencies and to state or local agencies that are funded by the federal government. The ADA supervises the facilities managed by state and local agencies, whether or not they receive monies from the federal government.

Rights of Inmates

Even the most chronic or hardened inmates have basic rights that are protected by the U.S. Constitution. If you are facing incarceration, or if you have a family member or friend who is in prison or jail, you should know about inmates' rights.

The rights of inmates include the following:

- The right to humane facilities and conditions
- The right to be free from sexual crimes
- The right to be free from racial segregation
- The right to express condition complaints
- The right to assert their rights under the Americans with Disabilities Act
- The right to medical care and attention as needed
- The right to appropriate mental health care
- The right to a hearing if they are to be moved to a mental health facility

U.S Dept. Of Justice Article

NCJ Number: 209174 Title: Managing Offenders with Special Health Needs: Highest and Best Use Strategies

Journal: Corrections Today Volume: 67 Issue: 1 Dated: February 2005 Pages: 58-61

Author(s): Elizabeth Anderson; Theresa Hilliard

Editor(s): Susan L. Clayton M.S.

Date Published: February 2005

Annotation: This article discusses the various types of special needs offenders incarcerated in correctional facilities, and the management of their special health needs through the use of special medical housing.

Abstract: One of the many challenges for the field of corrections is the development of effective strategies to address the unique requirements of offenders with special health needs, ranging from appropriate housing to effective release planning. In order to use both the physical plant and human resources optimally, it is important to develop cost-effective, less restrictive strategies that mainstream offenders with special health needs. It is necessary to identify the many categories of patients with special health needs. These categories include: elderly offenders,

the terminally ill, those with communicable and/or chronic diseases, physically handicapped, mentally/developmentally disabled, and blind/deaf offenders. Special medical housing is seen as an effective approach in managing offenders with special health needs. However, this special medical housing has the potential to be progressively expensive and costly as the offenders they serve have increasing levels of medical and physical disability. This article describes four levels of identified special medical housing: environmental support, assisted living, extended care, and infirmary care. This population of special needs offenders (aging, chronically ill, and disabled) will continue to challenge departments of corrections across the country. To manage these offenders effectively and cost efficiently, multiple strategies are needed.

Main Term(s): Inmate health care

Index Term(s): Corrections management; Elderly offenders; Emotional disorders; Inmates; Medical and dental services; Medical costs; Mentally ill inmates; Mentally ill offenders; Older inmates; Persons with cognitive disabilities; Prison special units; Socially challenged; Special needs offenders; Terminally ill inmates

Constitutional Provision Involved

United States Constitution, Amendment VII:

The Seventh Amendment continues a practice from English common law of distinguishing civil claims which must be tried before a jury (absent waiver by the parties) from claims and issues that may be heard by a judge alone. It only governs federal civil courts and has no application to civil courts set up by the states when those courts are hearing only disputes of law. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

United States Constitution, Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Eighth Amendment, made applicable to the states by the Fourteenth.

United States Constitution, Amendment XIV

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person

of life, liberty, or property, without due process of law; **nor deny to any person within its jurisdiction the equal protection of the laws.**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CEZARY WOJCIK, Plaintiff, v. COUNTY OF COOK, PAUL SKRIVAN, DAWN HOWELL, REBECCA MASI, DRUCILLA KILGORE individually, SHERIFF'S DEPUTY KALOUDIS, SHERIFF'S DEPUTY ALI, and COOK COUNTY SHERIFF THOMAS DART, in his official capacity, Defendants.	)	No. 14-CV-4854 Judge John J. Tharp, Jr.

MEMORANDUM OPINION AND ORDER

Plaintiff Cezary Wojcik, also known as Anthony Avado, alleges that the defendants were deliberately indifferent to his serious medical needs during his four-day incarceration at the Cook County Jail ("CCJ") in June 2013. A Cook County judge had ordered that Wojcik serve his term of incarceration at Cermak Memorial Hospital ("Cermak") and receive certain prescription medications while incarcerated. It is undisputed that the judge's order was not implemented, but the evidence of record does not establish that any defendant named in this suit was responsible for that failure, much less that any defendant violated the Constitution by failing to see that the order was carried out. Accordingly, the defendants' motion for summary judgment is granted.

BACKGROUND[1]

On June 27, 2013, Cook County Circuit Judge Sharon Sullivan sentenced Wojcik to serve four[2] days of incarceration at the Cermak Memorial Hospital ("Cermak") on a DUI conviction. Judge Sullivan attached to the sentencing order (also, "mittimus") a letter from a medical doctor listing the medications that Wojcik was then taking and ordered "that during his incarceration, Anthony Avado a/k/a Cezary Wojcik is to be administered the medications listed on the attached letter as per the orders of Jerry A. Jakimiec, M.D." Defs.' Statement of Facts ("DSOF") Ex. B Wojcik Dep. Ex. 2, Order & Letter from Jerry A. Jakimiec, M.D., ECF No. 129-3 (capitalization omitted). These medications consisted of: Alprazolam (Xanax), Clonazepam, Depakote ER, Prozac, Mysoline, and Norvace. Defendant Sheriff's Deputy Steve Kaloudis processed Wojcik at the courthouse and placed Judge Sullivan's order with the doctor's letter in a plastic bag along with Wojcik's other property. Wojcik was not allowed to personally carry the plastic bag with him to CCJ, but the plastic bag was processed by CCJ and held there until Wojcik was released on June 30.

Defendant Sheriff's Deputy Ali is one of the transport officers who drove Wojcik from the courthouse to CCJ. Wojcik contends that he was handcuffed with no safety belt and broke his back during the bus ride to CCJ. To support the contention that he broke his back, Wojcik cites to non-pertinent paragraphs of the amended complaint; a doctor's note that says Wojcik reported that he was having constant low back pain after he fell when a bus suddenly stopped, but that mentions no broken bone; and X-rays, at least one of which appears to be from 2018 (nearly five years after

[1] Because this is the defendants' motion for summary judgment, the Court construes all facts and draws all reasonable inferences in the light most favorable to Wojcik. *See Alexander v. Casino Queen, Inc.*, 739 F.3d 972, 977 (7th Cir. 2014).

[2] Wojcik was originally sentenced to ten days, but his sentence was reduced to four days after accounting for good time credit and credit for time served.

the incident), unsupported by any medical interpretation of those X-rays. Wojcik does not allege or provide evidence that Ali or any other defendant knew he had fallen in the bus and injured his back.

Wojcik was using the alias "Anthony Avado" during his June 2013 incarceration at CCJ. But Wojcik claims that "[a]rriving at intake CCJ [he] stated [his] name as Cezary Wojcik and complained to the officer about [his] court order and health issues and concerns." Pl.'s Statement of Additional Facts ("PSOF")[3] ¶ 4, ECF No. 138. Wojcik does not, however, allege to whom he voiced his health issues and concerns, to whom he mentioned his court order, or to whom he stated his name as Cezary Wojcik. On June 27, the date of his arrival, and the next day, June 28, Wojcik was seen by the four individual CCJ defendants: Nurse Drucilla Kilgore, Rebecca Masi,[4] Physician Assistant Paul Skrivan, and Nurse Dawn Howell.

Nurse Kilgore performed Wojcik/Avado's[5] initial intake screening. Wojcik/Avado reported to Kilgore that he had a history of seizures, hypertension, and heart problems including irregular heartbeat. Kilgore noted that Wojcik/Avado "appeared normal" and that his vital signs

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[3] Wojcik did not support his Statement of Additional Facts with an affidavit. But because Wojcik declared under penalty of perjury that the factual assertions in his statement of facts and in his opposition statement (both at ECF No. 138) are true, and because a "document filed *pro se* is to be liberally construed," *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (internal quotation marks and citation omitted), the Court treats those factual assertions as if they were set forth in an affidavit from Wojcik. *See Sealed Plaintiff v. Sealed Defendant # 1*, 537 F.3d 185, 191 (2d Cir. 2008) ("[The obligation to construe pleadings of pro se litigants liberally] entails, at the very least, a permissive application of the rules governing the form of pleadings.").

[4] The defendants assert that Rebecca Masi is a mental health specialist, but Wojcik contests that assertion as not reflected in the record. Pl.'s Resp. to DSOF ¶ 20, ECF No. 138. Resolution of this dispute is not material to the Court's ruling.

[5] The defendants recorded Wojcik's name as Avado throughout his medical screening. Where a defendant identified the plaintiff by name, this opinion will use "Wojcik/Avado" to indicate that the defendant understood the plaintiff's name to be Avado at the time of their encounter with him.

were stable. Defs.' Statement of Facts ("DSOF") ¶ 17, ECF No. 129.[6] Kilgore also noted that Wojcik/Avado took medication for Parkinson's disease and Alzheimer's disease, and Wojcik/Avado recalls telling someone when he was being processed that he had Parkinson's and Alzheimer's. Pl.'s Resp. to DSOF ¶ 19, ECF No. 138. Kilgore's intake summary reflects that, at the outset of the assessment, Wojcik denied that he had ever been treated for mental health issues or prescribed medications for mental health problems. Several pages later, however, the intake report reflects that Wojcik/Avado's "current medication list" included "Psych Meds, Other: MEDS FOR PARKINSON, ALHEIMER." [sic]. DSOF Ex. D, SAO WOJCIK 00009, ECF No. 129-5. Wojcik/Avado does not allege, and the intake form does not reflect, that he told Kilgore about Judge Sullivan's order or the prescription list from his doctor. Because Wojcik/Avado indicated that he had previously been prescribed medications to address psychiatric problems, Kilgore referred Wojcik/Avado for a mental health assessment.

Defendant Masi performed the mental health assessment of Wojcik/Avado after Kilgore's initial screening. Wojcik/Avado claims that he "[a]dmitted to taking medications including Xanax 2 mg and Clonazepam 2 mg which was explained to Rebecca Masi that the documents were in a placed in sealed plastic bag with [his] clothes on June 27, 2013." PSOF ¶ 6 (grammatical errors preserved). Wojcik/Avado also "complained to Masi[] about experiencing a panic attack, confusion, palpitations, pounding of the heart, chest pain, discomfort, and anxiety." *Id.* ¶ 8. Masi noted that Wojcik/Avado said he had been prescribed Xanax and Clonazepam to be taken twice daily. Masi consulted a psychiatrist who checked the Illinois Controlled Substance Database to verify that Wojcik/Avado had the prescriptions he reported. The medications did not appear in the

[6] Wojcik denies this fact but his denial fails to meet the substance of the statement; the cited exhibits do not contradict it.

database under "Anthony Avado," however, because they were listed under "Cezary Wojcik." (Wojcik does not allege or provide evidence that he told Masi that his name was Cezary Wojcik.) Before referring Wojcik/Avado back to the general population, Masi advised him that if his symptoms worsened before his follow-up appointment, he should fill out a Health Services Request Form.

Physician Assistant Skrivan performed another assessment of Wojcik/Avado shortly after Masi's. Wojcik/Avado told Skrivan that he took multiple medications but was unable to provide the names of those medications. Skrivan's assessment report describes Wojcik/Avado as a "poor historian" of his medical history, DSOF Ex. D, SAO WOJCIK 00014,[7] and that he attempted but was unable to verify Wojcik/Avado's prescriptions with Jewel's pharmacy; Skrivan also looked under the name "Avado" rather than "Wojcik." Skrivan noted that Wojcik/Avado did not appear to be in any distress but that his blood pressure was slightly elevated. Skrivan prescribed Wojcik/Avado with two blood pressure medications, Amlodipine and Propranolol, referred him for follow-up counseling regarding his medications, and marked the referral as urgent. Skrivan completed Wojcik/Avado's intake on June 27 and referred him to the medical infirmary for his housing assignment.

The next day, on June 28, Wojcik/Avado submitted the Health Services Request Form that Masi advised him to submit if his symptoms worsened. On that form, Wojcik/Avado hand wrote his name as "Anthony Avado"; the name "Cezary Wojcik" does not appear. Wojcik/Avado listed several medications he had taken the day before: Alprazolam, Clonazepam, Norvasc, Vicodin, and two other medications that are illegible. Nurse Howell responded to Wojcik/Avado's submission

[7] For example: Wojcik, who had just been convicted and sentenced for driving under the influence, denied any history of alcohol use.

of the Health Services Request Form. Initially, Howell was unable to verify Wojcik/Avado's medication because it was listed under the name "Wojcik," but the medication was ultimately verified and needed to be delivered from the pharmacy. Wojcik/Avado also complained to Howell about back pain. Wojcik/Avado's medical records show that he was given Tylenol, but Wojcik, in his response to the defendants' statement of facts, denies being given Tylenol.

Also on June 28, Wojcik's attorney visited CCJ with Judge Sullivan's order and complained that Wojcik had been placed in the general population at CCJ rather than at Cermak. Wojcik does not allege to whom his attorney complained, or who his attorney made aware of Judge Sullivan's order. Wojcik contends that as a result of not receiving his prescribed medications, he experienced withdrawal symptoms, including heart and neurological problems that caused him to fall on a staircase at CCJ, resulting in injury to his back (which, he says, had already been broken during transport from the courthouse the day before) and knees and a "broken" hernia. PSOF ¶¶ 16, 25. Wojcik says that he was required to use the stairs even though there was an elevator nearby. Wojcik does not allege that any defendant was aware of this fall.

Wojcik did not seek medical attention at CCJ on June 29 or 30. When Avado was released from CCJ on June 30, however, he was experiencing shortness of breath, a racing heartbeat, and difficulty walking. After he was released, he took a taxi to Rush Hospital. Wojcik reported chest pain and shortness of breath at Rush, and his EKG performed there was abnormal, but Wojcik told his treating physician approximately two hours after arriving at Rush that he felt better.

Wojcik was again incarcerated at the CCJ several years later, in 2016, this time for 120 days. Pl.'s Opp'n to Def.'s Mot. for Summ. J. ¶ 1, ECF No. 138.[8] The judge in that case also

[8] The defendants assert that this document, which is not authorized to be filed by the local rules, should be stricken for that reason and for its lack of relevance. The Court agrees that the content of the document, which pertains almost entirely to events relating to Wojcik's subsequent

ordered that Wojcik be sent to Cermak. *Id.* In connection with his 2016 incarceration, Wojcik and his sentencing order were sent to Cermak, Wojcik was transported in a van for inmates with special needs, and Wojcik was given his prescription medication. *Id.* ¶¶ 1, 3, 5.

Wojcik, initially with retained counsel, brought suit alleging that the defendants were deliberately indifferent to his need for his prescription medications while he was incarcerated at CCJ from June 27 to 30, 2013. Wojcik's retained counsel filed both the initial complaint and the amended complaint but later filed a motion to withdraw citing irreconcilable differences, a breakdown in communications, and concerns about the viability of Wojcik's claims. This Court granted Wojcik's retained counsel's motion to withdraw contingent on their contacting Wojcik to inform him that he must find new counsel or enter a *pro se* appearance within 21 days. About two months later, Wojcik's retained counsel filed a status report reporting that Wojcik had not responded to attempts to contact him by certified mail, email, or phone. Wojcik then failed to appear at a status hearing the following month, and his counsel reported that they still had not received any response from Wojcik despite making every possible attempt to contact him. Magistrate Judge Kim then recommended that this Court dismiss the matter for failure to prosecute based on Wojcik's lack of cooperation with his attorneys and his failure to contact the court and comply with its orders.

Wojcik's retained counsel subsequently filed a letter with the Court explaining that Wojcik had just been released from prison, but that he had not informed his counsel the he would be going to jail in the near future. Wojcik appeared during the next status hearing and claimed that his counsel knew where he was going and how long he would be there. Wojcik was granted two

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incarceration at the CCJ in 2016, has no relevance to the claims in this case. It is not necessary to strike the document from the record.

months to retain new counsel but was unable to retain replacement counsel. Wojcik subsequently filed a motion for attorney representation, which this Court granted. Appointed counsel moved to withdraw roughly two months after being appointed, reporting that they had diligently reviewed the record and had multiple conversations with Wojcik but could not go forward advancing Wojcik's claims consistent with their ethical obligations to the Court. This Court granted appointed counsel's motion to withdraw. Wojcik was granted another month to retain new counsel but filed another motion for attorney representation after he was unable to retain new counsel. In light of the inability of both retained and appointed counsel to continue asserting Wojcik's claims consistent with their ethical obligations, Wojcik's apparent lack of communication with his original counsel, and Wojcik's failure to explain why he was unable to proceed with this case on his own, this Court denied Wojcik's second motion for appointed counsel.

Wojcik alleges that Cook County Sheriff's deputies Kaloudis and Ali were deliberately indifferent to his serious medical needs by failing to ensure that his mittimus was properly delivered, and that CCJ defendants Kilgore, Masi, Skrivan, and Howell were deliberately indifferent to his serious medical needs by willfully disregarding his visible signs of distress and his medical needs as expressed in his mittimus. This Court previously granted in part the defendants' motion to dismiss Wojcik's amended complaint, dismissing *Monell* claims asserted against the County. *See* Mem. Op. and Order, ECF No. 37. The counts remaining in this case are Counts I–II, alleging that the individual Sheriff's deputy and CCJ defendants were deliberately indifferent to Wojcik's medical needs; Counts V–VI, alleging *respondeat superior* liability of Sheriff Dart and Cook County for wrongful conduct of the individual defendants committed within the scope of their employment; and Counts VII–VIII, alleging indemnification against Sheriff Dart and Cook County.

DISCUSSION

The defendants move for summary judgment, arguing that the effects of Wojcik not receiving his prescription medication did not rise to the level of a serious medical condition, that no defendant was deliberately indifferent to his serious medical needs, and that the Sheriff's deputy defendants are protected by qualified immunity. "Summary judgment is appropriate where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." *Alexander v. Casino Queen, Inc.*, 739 F.3d 972, 977 (7th Cir. 2014). To show that a material fact is disputed, the party "must support the assertion by . . . citing to particular parts of materials in the record." Fed. R. Civ. P. 56(c)(1). Further, to show that there is a genuine fact issue, the party opposing summary judgment "must do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). "The mere existence of a scintilla of evidence in support of the plaintiff's position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986). Many of the fact disputes that Wojcik posits fail to satisfy these standards, others are irrelevant to his claim against the named defendants, and none (individually or collectively) would permit a reasonable jury to find in his favor.

The Eighth Amendment, as incorporated through the Fourteenth Amendment, imposes "a duty on states to provide adequate medical care to incarcerated individuals. Officials violate this duty if they display deliberate indifference to serious medical needs of prisoners." *McGee v. Adams*, 721 F.3d 474, 480 (7th Cir. 2013) (citations and internal quotation marks omitted). For Wojcik's claims to survive summary judgment, then, he must point to specific facts in the record that would allow a reasonable jury to conclude that both elements of a deliberate indifference claim have been satisfied. That is, Wojcik "must present evidence supporting the conclusion that he had

an objectively serious medical need. A medical need is considered sufficiently serious if the inmate's condition has been diagnosed by a physician as mandating treatment or is so obvious that even a lay person would perceive the need for a doctor's attention." *Id.* Wojcik must also present evidence supporting a conclusion "that the defendants were aware of his serious medical need and were deliberately indifferent to it. Deliberate indifference is more than negligence and approaches intentional wrongdoing." *Id.* The state of mind required to establish deliberate indifference is "essentially a criminal recklessness standard, that is, ignoring a known risk. Even gross negligence is insufficient to impose constitutional liability" on the defendants. *Id.* at 481. To be liable for deliberate indifference, a defendant "must both be aware of the facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw that inference." *Farmer v. Brennan*, 511 U.S. 825, 837 (1994).

Here, although the evidence supports the existence of a serious medical need,[9] there is no evidence giving rise to a reasonable inference that any defendant knew about a significant risk to Wojcik's heath and deliberately or recklessly disregarded that risk. Wojcik alleges that deputies Kaloudis and Ali failed to present Wojcik's mittimus to officials at Cermak or to the individual CCJ defendants even though they knew about the mittimus and Wojcik's serious medical condition. *See* Am. Compl. ¶ 17, ECF No. 16 ("Defendant Kaloudis and/or Defendant Ali acted willfully and/or wantonly in failing to present plaintiff's mittimus to officials at Cermak Memorial Hospital notwithstanding their knowledge of the Court order and the plaintiff's serious medical condition as reflected in the court's mittimus.") (capitalization omitted); *see also id.* at ¶ 30

[9] Wojcik had been prescribed six different medications to treat various conditions, and the state court judge ordered him to serve his sentence in a hospital, so the evidence is sufficient to support a finding that Wojcik suffered from serious medical needs that required ongoing treatment by means of the prescribed medication and hospitalization.

("While in the custody and care of one or more individual defendant Sheriff Deputies, one or more individual defendant Sheriff deputies failed to ensure plaintiff's mittimus reached the individual Cook County defendants.") (capitalization omitted). But to support this allegation, Wojcik offers nothing more than the facts that Kaloudis processed him at the courthouse and Ali transported him to CCJ. Wojcik has adduced no evidence that Kaloudis had any responsibility for transporting him, or the mittimus, to the CCJ or Cermak; so far as the record reflects, Kaloudis included the judge's order with Wojcik's property and the order went with him to the CCJ. *See* PSOF Ex. 2; *see also* Defs.' Resp. to PSOF ¶ 3, ECF No. 143. Kaloudis's involvement was over when Wojcik was taken from the courthouse.

As for Deputy Sheriff Ali, the evidence does not establish that he knew anything at all about Wojcik's medical condition or the judge's order. As with Kaloudis, no evidence has been offered to support the conclusion that Ali had any responsibility to ensure that the mittimus was delivered to Cermak or the individual CCJ defendants rather than to CCJ for processing.[10] Through Wojcik's opposition to summary judgment, he adds an allegation that he broke his back while Ali was transporting him to CCJ,[11] but he does not contend that Ali (or any other defendant) knew that he had injured his back during the bus ride. Accordingly, a reasonable jury could not conclude that either Deputy Kaloudis or Deputy Ali was deliberately indifferent to Wojcik's medical needs.

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[10] Further, Cermak is part of CCJ. Although Wojcik appears to dispute this, *see* Pl.'s Resp. to DSOF ¶ 6 ("The cited document says nothing about Cermark [sic] Hospital being on the ground [sic] of CCJ."), the Court can take judicial notice of that fact as it is not subject to reasonable dispute. *See Orgone Capital III, LLC v. Daubenspeck*, 912 F.3d 1039, 1048 (7th Cir. 2019); *see also, e.g.*, https://www.inmateaid.com/visitation/cook-county-jail-ccdoc-cermak-hospital (providing visitation information for CCJ inmates housed at Cermak); https://www.jaildata.com/prison/cook-county-sheriff-jail-ccdoc-doc-cermak-hospital ("Cook County Sheriff Jail (CCDOC) – D.O.C. Cermak Hospital is a county jail facility").

[11] The Amended Complaint makes no such allegation.

Wojcik alleges that he "attempted to inform one or more individual Cook County [Jail] defendants of his dire medical condition," Am. Compl. ¶ 22, ECF No. 16 (capitalization omitted), and that the individual Cook County defendants had "actual knowledge via plaintiff's mittimus" of Wojcik's objectively serious medical needs, *id.* at ¶ 34. He also alleges that the individual Cook County defendants consciously and deliberately disregarded the risk of substantial harm to Wojcik stemming from those medical needs. He offers no evidence, however, that any defendant had actual knowledge of his medical needs as expressed in his mittimus, let alone that any defendant was deliberately indifferent to those medical needs. To the extent that the Cook County defendants observed or were otherwise made aware of Wojcik's medical needs, the evidence supports the conclusion that they made efforts to understand and respond to those needs, not that they deliberately disregarded them. Just as with the deputy defendants, it does not follow from the mere fact that the CCJ defendants interacted with Wojcik that they must be responsible for Wojcik's mittimus not being properly processed or that they were deliberately indifferent to his medical needs as expressed therein.

Each of the CCJ defendants made efforts to verify the prescriptions Wojcik/Avado reported, referred him for further evaluation, or both. Those referrals ultimately led to Wojcik/Avado being referred to the medical infirmary for his housing assignment. Wojcik/Avado's medications were ultimately verified, and although those medications do not appear to have been delivered to Wojcik/Avado before the end of his brief term of incarceration, there is no evidence to suggest that the delay was the result of deliberate indifference on the part of any defendant identified in this case. The defendants' conduct is alleged to have been deficient only to the extent that they failed to take action that Wojcik has not provided a reasonable basis to believe the defendants should have known at the time to take.

Kilgore first evaluated Wojcik/Avado and noted that he "appeared normal" but referred him for further mental health evaluation anyway because of his self-report of having received prescriptions for "psych meds" in the past. Kilgore is not alleged to have known of the mittimus or the list of prescriptions that accompanied Wojcik to the CCJ. Wojcik/Avado was next evaluated by Masi. Wojcik/Avado claims that he "[a]dmitted to taking medications including Xanax 2 mg and Clonazepam 2 mg which was explained to Rebecca Masi that the documents were in a placed in sealed plastic bag with [his] clothes on June 27, 2013." PSOF ¶ 6 (grammatical errors preserved). The evidence to which Wojcik cites for this assertion suggests that he told Masi that he was taking Xanax and Clonazepam, *see* DSOF Ex. D, SAO WOJCIK 00011, ECF No. 129-5, but not that he told Masi about the court order. Further, the most natural reading of this assertion is that the documentation he claims he told Masi about related only to his Xanax and Clonazepam medications; nothing in that assertion would have alerted Masi that the documentation to which Wojcik/Avado was referring would show that his medical needs were more extensive than those he was expressing verbally. Perhaps Masi's best course of action would have been to immediately investigate what was reflected in those documents anyway. But to survive summary judgment, Wojcik must point to specific facts giving rise to a reasonable inference that a defendant acted with a state of mind akin to criminal recklessness. *See McGee*, 721 F.3d at 480–81. Failing to take a course of action that with the benefit of hindsight may appear to have been the best course of action does not, without more, give rise to an inference that Masi failed to investigate the contents of those documents with a state of mind akin to criminal recklessness. Masi was aware that Wojcik/Avado had an upcoming follow-up appointment and still advised him to submit a Health Services Request Form if he needed more immediate attention. *See* DSOF Ex. D, SAO WOJCIK 00013 (Masi "encouraged [Wojcik/Avado] to fill out a yellow Health Service Request form if

symptoms worsen before [his] follow up appointment."). Wojcik/Avado filled out that form the next day and was further evaluated.

Masi, moreover, was hardly indifferent to whether Wojcik/Avado required prescription medications; she attempted to verify his medications but was unable to do so because he was using his "Avado" alias. The same is true for defendant Skrivan, who also attempted to verify Wojcik/Avado's claims about his prescription. There is no evidence, for example, that any defendant disregarded a suggestion that they should search prescription drug databases under the name "Wojcik" instead of "Avado." Skrivan's regard for Wojcik/Avado's medical needs is also evident from his referral of Wojcik/Avado to the medical infirmary for further medical evaluation, and marking of the referral as urgent, even though Skrivan is not alleged to have in any way been aware of Wojcik/Avado's mittimus.

The final defendant to evaluate Wojcik/Avado was Howell, who verified Wojcik/Avado's medications and requested those medications from the pharmacy. It appears that those medications were not delivered before Wojcik/Avado was released two days later, but there is no basis in the record to conclude that Howell or any other defendant could have (or should have) done more to ensure that the medications were delivered sooner.

As for his allegations concerning his back injury, the defendants contend, and the medical records support, that Wojcik/Avado "complained about lower back pain" to Howell, and that Wojcik/Avado "was given Tylenol." DSOF ¶ 37. Wojcik, in response to this statement of fact, "affirmatively states that he wasn't given Tylenol." Pl.'s Resp. to DSOF ¶ 37. But Wojcik offers no testimonial or other evidence in support of this denial, so it may not even clear the "scintilla" standard, but even if it did, the dispute would not be material for at least two reasons. First, Wojcik has not alleged or adduced evidence that Howell knew that he had fallen on the bus or on the stairs,

that his pain was severe,[12] or that Howell was aware of the severity of his pain. And second, this dispute has nothing to do with Wojcik's claim. Wojcik's amended complaint says nothing about the failure to provide adequate care for his back injury and founds no claim on that basis.

What the record in this case establishes is that Judge Sullivan's order that Wojcik serve his time in the Cermak Hospital and that he be administered his prescription drugs was not carried out. That is unfortunate. That failure does not, however, mean that any defendant named in this suit violated Wojcik's constitutional rights by recklessly disregarding Wojcik's serious medical conditions. Others—the CCJ intake officer, for example—may have been aware of Judge Sullivan's order and the need to ensure that his prescription medications were administered, but the plaintiff has not identified them.[13] And several of the defendants could, perhaps, have done more to ferret out Wojcik's need for medications, but no reasonable jury could, on this record, conclude that any of the named defendants were recklessly indifferent to Wojcik's medical needs as expressed in his mittimus or otherwise. On this record, it is plain that the fundamental cause of the problem in identifying Wojcik's medications was not due to the indifference of any of the named defendants but to the Wojcik's own actions in using an alias that differed from the name in which his prescriptions had been issued. And because the deliberate indifference claims against the individual defendants fail and Wojcik has not asserted any other theory of relief against the individual defendants, the *respondeat superior* and indemnification claims premised upon the conduct of the individual defendants also fail.[14]

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[12] Notably, in this regard, Wojcik did not complain of back pain or injury when he went to Rush hospital upon his release from custody.

[13] The Court intends no finding that any other person would, in fact, be liable on Wojcik's claims.

[14] The Court need not reach the question of whether the defendants' actions were protected by qualified immunity. Had Wojcik asserted facts giving rise to an inference that any defendant deliberately disregarded a court's order requiring that Wojcik receive prescription medication,

* * *

For the reasons stated above, the defendants' motion for summary judgment, ECF No. 128, is granted.[15]

Dated: August 30, 2019

John J. Tharp, Jr.
United States District Judge

however, it is unlikely that such a defendant could establish that he or she did not violate Wojcik's clearly established rights.

[15] Wojcik's motion to strike the defendants' motion for summary judgment, ECF No. 139, which is devoid of any explanation of the alleged deficiency in the defendants' motion, is also denied.