NO. _____

_____

In the

Supreme Court OF The United States

_____

Albert Robinson # 602273 - Petitioner

VS

Adam Kandulski Et Al - Respondents

Motion Directing Clerk To File Petitioners Corrected Petition For Writ OF Certiorari out OF Time.

1. I am the petitioner in the above case.
2. Due to the major Covid-19 outbreaks at Parnall our law library time has been cut drastically.
3. We are averaging Four hours every five days. Five units, separately.
4. Our Law Library was also shut down from late March 2020, to July 2020. And my toll was running, which, put me behind from the start of this difficult process.

5. Petitioner did make the necessary corrections, hoping they are to the satisfaction of the Court.

Thanks

Albert Robinson # 602873

Parnall Correction Facility
1780 E Parnall Rd
Jackson MI 49201

Robinson v. Kandulski, 2019 U.S. App. LEXIS 36364

United States Court of Appeals for the Sixth Circuit

December 6, 2019, Filed

Nos. 19-1221/1288

Reporter

2019 U.S. App. LEXIS 36364 * | 2019 WL 8165865

ALBERT REGINALD ROBINSON, Plaintiff-Appellant, v. DR. ADAM KANDULSKI, et al., Defendants-Appellees.

Notice: NOT RECOMMENDED FOR FULL-TEXT PUBLICATION. SIXTH CIRCUIT RULE 28 LIMITS CITATION TO SPECIFIC SITUATIONS. PLEASE SEE RULE 28 BEFORE CITING IN A PROCEEDING IN A COURT IN THE SIXTH CIRCUIT. IF CITED, A COPY MUST BE SERVED ON OTHER PARTIES AND THE COURT. THIS NOTICE IS TO BE PROMINENTLY DISPLAYED IF THIS DECISION IS REPRODUCED.

Subsequent History: Rehearing denied by **Robinson v. Kandulski**, 2020 U.S. App. LEXIS 6838 (6th Cir., Mar. 4, 2020)

Prior History: **[*1]** ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN.

Robinson v. Kandulski, 2019 U.S. Dist. LEXIS 16933 (W.D. Mich., Feb. 4, 2019)

Robinson v. Kandulski, 2017 U.S. Dist. LEXIS 51758 (W.D. Mich., Apr. 5, 2017)

APPENDIX A (36)

Core Terms

grievance, bathroom, conclusory, recommended, inmates, retaliation, misconduct, appoint, ticket

Counsel: Albert Reginald Robinson (19-1221, 19-1288), Plaintiff - Appellant, Pro se, Jackson, MI.

For MICHAEL P. MILLETTE, Physician Assistant, Defendant - Appellee (19-1221): Wedad Ibrahim, Ronald W. Chapman Sr., Chapman Law Group, Troy, MI.

For THERESA M. MERLING, Nurse, PENNY FILION, Nurse Supervisor, TIMOTHY ROSS, Correctional Officer, CHRISTOPHER GOLLADAY, Correctional Officer, JOSEPH CUSICK, Correctional Officer, JOCQUE BENOIT, Correctional Officer, Defendants - Appellees(19-1221) (19-1288): Austin Curtis Raines, Assistant Attorney General, Office of the Attorney General, Lansing, MI.

For MICHAEL P. MILLETTE, Physician Assistant, Defendant - Appellee (19-1288): Wedad Ibrahim, Chapman Law Group, Troy, MI.

Judges: Before: SUHRHEINRICH, COOK, and READLER, Circuit Judges.

Opinion

ORDER

In Case No. 19-1221, Albert Reginald Robinson, a Michigan prisoner proceeding pro se, appeals the district court's judgment denying his civil rights complaint, filed pursuant to 42 U.S.C. § 1983. In Case No. 19-1288, Robinson appeals a prior order dismissing his claims against several defendants and an order denying a motion for reconsideration of that prior order. **[*2]** This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

In October 2016, Robinson filed a complaint against Corizon Health Services ("Corizon"), twenty-eight employees of the Saginaw Correctional Facility ("SRF"), and the Chippewa Correctional Facility ("URF"). He alleged that the defendants violated (1) his First Amendment rights by retaliating against him, (2) his Eighth Amendment rights by failing to provide adequate treatment for his serious medical needs and denying him access to a bathroom, and (3) his Fourteenth Amendment rights by denying him due process and equal protection under the law and falsifying medical records. Robinson sought (1) declaratory judgment, (2) an injunction requiring the defendants to provide adequate medical care and additional staff training, to expunge his disciplinary convictions, and to refund unnecessary co-pays; and (3) compensatory and punitive damages.

The district court granted Robinson leave to proceed in forma pauperis. On April 5, 2017, the district court dismissed Robinson's complaint against the following defendants under 28 U.S.C. §§ 1915(e)(2) and 1915A(b) and 42 U.S.C. § 1997e(c) for failure to state a claim upon which relief could be granted: SRF physician Dr. **[*3]** Adam Kandulski, SRF nurse Sarah Alton, SRF Health Unit Manager Susan B. McCauley, SRF physician's assistant Joshua Buskirk, SRF nurse Charles E. Turner, URF nurse Patricia Lamb, URF physician Dr. Bienvenido B. Canlas, URF

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medical records employee H. Haapala, URF Health Unit Manager Melissa LaPlaunt, URF nurse practitioner Brenda Buchanan, URF ophthalmologist Dr. Carolyn Pierce, URF librarians Christine Henson and Suriano, an unnamed URF mail collection and delivery employee, URF counselor Pancheri, URF grievance coordinator McLean, URF correctional officers Killips and Thompson, URF nurse Joseph Damron, URF Assistant Deputy Warden Horton, URF Warden Jeffrey Woods, and Corizon.

On July 24, 2017 Defendants Theresa Merling, Penny Filion, Timothy Ross, Christopher Golladay, Joseph Cusick, and Jocque Beniot filed a motion for summary judgment for failure to exhaust administrative remedies, and on December 7, 2017, Defendant Michael Millette filed a motion for summary judgment. A magistrate judge recommended granting summary judgment in favor of URF nurse supervisor Penny Filion and dismissing Robinson's claims against her without prejudice due to Robinson's failure to exhaust his administrative **[*4]** remedies. He recommended denying summary judgment to URF nurse Theresa Merling and URF correctional officers Ross, Golladay, Cusick, and Benoit. Finally, the magistrate judge recommended granting URF physician assistant Michael Millette's motion for summary judgment and dismissing Robinson's claims against Millette with prejudice. Robinson objected. On March 6, 2018, after reviewing Robinson's objections, the district court concluded that Robinson had, in fact, exhausted his claims against Filion. The district court modified the magistrate judge's report and recommendation, finding that Robinson had exhausted his claims against Filion, and otherwise adopted the report. Robinson's claims were consequently dismissed against Millette with prejudice.

On April 6, 2018, Robinson filed a motion to reconsider the April 5, 2017 order, which dismissed the majority of the named defendants under 28 U.S.C. §§ 1915(e)(2), 1915A(b), and 42 U.S.C. § 1997e(c). The district court denied that motion on February 11, 2019.

On June 4, 2018, the remaining defendants—Benoit, Cusick, Filion, Golladay, Merling, and Ross—filed a second motion for summary judgment, and the magistrate judge recommended granting the motion. Over Robinson's objections, the district **[*5]** court, on February 4, 2019, adopted the magistrate judge's report and recommendation and granted the defendants' motion for summary judgment. Robinson filed a notice of appeal challenging that decision, which was docketed as Case No. 19-1221. He filed a separate notice of appeal challenging the April 5, 2017, order dismissing claims against certain defendants under 28 U.S.C. §§ 1915(e)(2), 1915A(b), and 42 U.S.C. § 1997e(c), and the February 11, 2019, order denying his motion for reconsideration of the April 5, 2017 order. That appeal was docketed as Case No. 19-1288. This court consolidated the appeals on April 4, 2019.

On appeal, Robinson argues that the district court erred by dismissing his claims against Dr. Kandulski, Buskirk, Turner, Lamb, Dr. Canlas, Haapala, LaPlaunt, Dr. Pierce, Henson, Corizon, and Woods. He also argues that the district court erred by granting summary judgment in favor of Millette, Merling, Filion, Ross, Golladay, Cusick, and Benoit. Robinson presents no specific arguments with respect to the dismissal of his claims against the remaining defendants and, therefore, has waived appellate review of those claims. *See Radvansky v. City of Olmsted Falls*, 395 F.3d 291, 310-11 (6th Cir. 2005) (citation omitted). Robinson moves for the appointment of counsel.

I. April 5, 2017 Dismissals ***[*6]***

We review de novo the dismissal of a complaint under 28 U.S.C. §§ 1915(e), 1915A, and 42 U.S.C. § 1997e. *Flanory v. Bonn*, 604 F.3d 249, 252 (6th Cir. 2010). To survive dismissal

under these statutes, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Hill v. Lappin*, 630 F.3d 468, 471 (6th Cir. 2010) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009)).

A. Dr. Kandulski, Turner, and Buskirk

In its April 5, 2017, order, the district court first found that any claims arising from conduct that occurred prior to October 2013 were barred by the applicable three-year statute of limitations. On appeal, Robinson raises only one challenge to this finding. He contends that his claims against Dr. Kandulski, Turner, and Buskirk should not have been barred by the statute of limitations because of the "continuous violation doctrine." He contends that Dr. Kandulski examined him on October 8, 2013, and Turner examined him on October 31, 2013. But even assuming that Dr. Kandulski examined Robinson on October 8, 2013, Robinson did not file his complaint until October 12, 2016. Because the conduct occurred more than three years prior, the continuing violation doctrine would not save Robinson's claims against Dr. Kandulski.

The district court implicitly acknowledged that Turner and Buskirk each examined Robinson **[*7]** at least once after the October 12, 2013, cut-off. But the continuing violation doctrine—a doctrine that is "rarely" applied in § 1983 cases—applies only in cases of "serial violations" or violations "identified with a longstanding and demonstrable policy of discrimination." *Sharpe v. Cureton*, 319 F.3d 259, 266-67 (6th Cir. 2003). Robinson alleged no facts from which to infer that Turner or Buskirk engaged in a longstanding policy of discrimination. Furthermore, the district court found that Turner's and Buskirk's post-October 12, 2013, conduct did not violate the Eighth Amendment. Robinson therefore did not show a series of continuing violations. Even if Robinson could show that these defendants violated his Eighth Amendment rights before October 12, 2013, "a continuing violation is occasioned by continual unlawful acts, not continual ill effects from an original violation." *Eidson v. Tenn. Dep't of Children's Servs.*, 510 F.3d 631, 635 (6th Cir. 2007) (quoting *Tolbert v. Ohio Dep't of Transp.*, 172 F.3d 934, 940 (6th Cir. 1999)).

The district court did address the merits of Robinson's claims against Turner and Buskirk to the extent that those claims were based on conduct that occurred after October 12, 2013. Robinson argues on appeal that the district court erred in dismissing his Eighth Amendment claim against Turner because Turner examined his penis when it had scabs on it and he was complaining of severe pain but failed to provide **[*8]** any treatment. Robinson cites a "nurse protocol" completed by Turner at 7:43 a.m. on October 31, 2013. A separate form shows that it was actually Buskirk, a physician's assistant, who provided treatment at that time. Turner cannot be held responsible for Buskirk's alleged failure to provide adequate care.

With respect to Buskirk, Robinson argues that Buskirk altered his medical records so that his condition did not sound as severe as it actually was. This claim is based upon his contention that Buskirk's November 5, 2013, treatment note is internally inconsistent. The record does not support that assertion. Robinson also alleged in his complaint that, at one point, Buskirk documented his pain as a three out of ten on a ten-point pain scale when he had actually reported that his pain was a seven out of ten. Even accepting this fact as true, it does not show that Buskirk perceived and then disregarded a substantial risk to Robinson's health. *See Comstock v. McCrary*, 273 F.3d 693, 703 (6th Cir. 2001).

B. Dr. Pierce

Next, Robinson argues that the district court erred by granting summary judgment on his claims against Dr. Pierce because Dr. Pierce failed to treat his eyes effectively since November 2014. Because Dr. Pierce provided some treatment **[*9]** for Robinson's eyes, Robinson could only state an Eighth Amendment claim by alleging facts showing that the treatment that he received was "so woefully inadequate as to amount to no treatment at all." *Alspaugh v. McConnell*, 643 F.3d 162, 169 (6th Cir. 2011) (quoting *Westlake v. Lucas*, 537 F.2d 857, 860 n.5 (6th Cir. 1976)). Robinson did not make this showing, because the medical records that he submitted show that Dr. Pierce addressed his concerns with his vision and prescribed treatment. Robinson's disagreement with that treatment is insufficient to state an Eighth Amendment claim. *See Estelle v. Gamble*, 429 U.S. 97, 106-07, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976); *Darrah v. Krisher*, 865 F.3d 361, 372 (6th Cir. 2017).

C. Lamb

In his complaint, Robinson alleged that Lamb—a nurse—failed to investigate properly the grievances that Robinson filed. On appeal, he contends that the district court should not have dismissed his claims against Lamb because she reviewed October 28, 2015 exam notes and should have been aware that he had a history of benign prostatic hyperplasia ("BPH")[1] dating back to 2014 but had never received medical therapy for that condition. The October 25, 2015, exam notes reflect that Robinson complained of "hesit[a]ncy, dribbling, weak stream, incomplete voiding, urgency, frequency, and nocturia x 3," that he was being treated by a physician for these symptoms, and that he had been prescribed medication to attempt to resolve these symptoms. **[*10]** After reviewing these notes, Lamb would have had no reason to believe that the treatment that Robinson was receiving was "so woefully inadequate as to amount to no treatment at all." *Alspaugh*, 643 F.3d at 169 (quoting *Westlake*, 537 F.2d at 860 n.5).

D. Dr. Canlas

Robinson argues on appeal that Dr. Canlas failed to treat sores on his penis adequately by refusing to prescribe antibiotics on January 12, 2016. But Dr. Canlas's medical notes from January 12, 2016, show that Robinson had just completed a thirty-day round of Cipro, an antibiotic, and that Dr. Canlas prescribed a topical cream to treat Robinson's symptoms. Robinson's mere disagreement with this treatment plan was insufficient to state an Eighth Amendment claim. *See Estelle*, 429 U.S. at 106-07; *Darrah*, 865 F.3d at 372. Nor has Robinson shown that Dr. Canlas's actions were "so woefully inadequate as to amount to no treatment at all." *Alspaugh*, 643 F.3d at 169.

E. Haapala

Robinson argues on appeal that the district court erred by dismissing his claim that Haapala improperly deleted a medical record. That claim, however, was based upon pure speculation.

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Such a conclusory allegation is insufficient to state a claim for relief. *See* Iqbal, 556 U.S. at 678.

F. Corizon

Robinson next challenges the district court's dismissal of his claims against Corizon, arguing that he adequately alleged that Corizon **[*11]** had a custom of not demanding that its employees provide adequate medical treatment. Robinson's complaint, however, alleged no such policy or custom; rather, it merely alleged that Corizon failed to train or supervise its employees properly. Moreover, Robinson's complaint did not detail which, if any, individual defendants were Corizon employees.

G. Henson

Robinson contends that he adequately alleged that Henson retaliated against him for filing a grievance against her. He also contends that Henson denied him a fair hearing, violated his due-process rights, and wrote a false misconduct ticket. According to Robinson's complaint and the exhibits attached thereto, Robinson filed a grievance against Henson in 2015, alleging that she had refused to make copies for him in connection with a state-court appeal. Robinson checked out a book from the library on December 15, 2014. On January 13, 2016, he received an overdue notice. Robinson wrote a note to Henson informing her that he had already returned the book. He received another overdue notice on January 20, 2016. He then filed a grievance claiming retaliation. On January 29, 2016, Henson wrote him a misconduct ticket for failing to return **[*12]** the book. Robinson pleaded not guilty to the misconduct ticket. On February 4, 2016, a hearing officer called "the librarian" and was told that "the book has still not been returned to the library." Robinson later discovered that the book had been returned on February 3, 2016.

To state a First Amendment retaliation claim, a plaintiff must plead facts showing that he engaged in protected conduct, that the defendant took an adverse action against him, and that the defendant's action was motivated by the protected conduct. *See* Thaddeus-X v. Blatter, 175 F.3d 378, 394 (6th Cir. 1999) (en banc). Robinson did not plead facts establishing the third element. Because it is unclear when in 2015 Robinson filed his grievance, the temporal proximity between the grievance and the misconduct ticket, standing alone, was insufficient to show a causal connection between the two. *See* Benison v. Ross, 765 F.3d 649, 661 (6th Cir. 2014). Moreover, according to Robinson, the book was returned to the library on February 3, 2016, well after the due date and after Henson wrote the misconduct ticket.

H. Woods

Robinson argues on appeal that the district court should not have dismissed his claims against Woods because Woods failed to stop corrections officers from enforcing a "top of the hour" policy, pursuant to which inmates were **[*13]** permitted to use the restroom only at the top of the hour. The district court properly found that "[g]overnment officials may not be held liable for the unconstitutional conduct of their subordinates under a theory of respondeat superior or vicarious liability." *See* Iqbal, 556 U.S. at 676; Everson v. Leis, 556 F.3d 484, 495

(6th Cir. 2009). A supervisor may be held liable only if he "at least implicitly authorized, approved, or knowingly acquiesced in the unconstitutional conduct of the offending officers." *Everson*, 556 F.3d at 495 (quoting *Shehee v. Luttrell*, 199 F.3d 295, 300 (6th Cir. 1999)). Robinson alleged, however, that Woods asked Golladay, Cusick, and Benoit to stop enforcing the top-of-the-hour policy.

Robinson also argues on appeal that the district court erred by dismissing his retaliatory transfer claim against Woods. But that claim was wholly conclusory—Woods did not specify which grievances constituted protected conduct, nor did he allege any facts that could establish a causal connection between the protected conduct and the allegedly retaliatory transfer. *See Iqbal*, 556 U.S. at 678.

I. LaPlaunt

Robinson argues on appeal that LaPlaunt conspired with Filion and Millette to delete and rewrite his medical record. The district court properly dismissed this claim because Robinson pled no specific facts to support it. *Id.*

II. March 6, 2018 Summary ***[*14]*** *Judgment in Favor of Millette*

Robinson argues on appeal that the district court erred by failing to accept as true his allegation that Millette diagnosed him with BPH in February 2014 and that Millette failed to inform him of this diagnosis or provide any treatment for the condition. He also argues that Millette conspired with others to delete and rewrite his medical records. He contends that the district court overlooked all medical records from 2014 that documented his urinary problems.

We review de novo a district court's grant of summary judgment. *Pucci v. Nineteenth Dist. Court*, 628 F.3d 752, 759 (6th Cir. 2010). Summary judgment is appropriate where the evidence, viewed in the light most favorable to the non-moving party, "show[s] that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." *Id.* (quoting former Fed. R. Civ. P. 56(c)(2), now Fed. R. Civ. P. 56(a)).

Robinson had no direct knowledge that Millette diagnosed him with BPH in 2014. He admitted as much, stating that he was never informed of such a diagnosis. Robinson's contention that such a diagnosis was made hinged solely on an October 28, 2015, medical note, which stated that Robinson "has a history of BPH and initial complaints of frequency, hesit[a]ncy, decreased stream **[*15]** from back in 2014. He was never treated with medical therapy." The district court properly interpreted this note as stating that Robinson's *symptoms* dated back to 2014, not that he was diagnosed with BPH in 2014. The record supports this interpretation. A February 2015 exam note stated that Robinson's "[p]rostate appears normal," an August 25, 2014, examination showed that Robinson's "testicles [were] normal size," and a June 10, 2014, medical note stated that Robinson's most recent rectal exam was normal.

Robinson also submitted no evidence to support his wholly conclusory allegation that Millette conspired with others to alter his medical records. Conclusory allegations, speculation, and unsubstantiated assertions are not evidence, and are not sufficient to defeat a well-supported motion for summary judgment. *See Lujan v. Nat'l Wildlife Fed'n*, 497 U.S. 871, 888-89, 110 S. Ct. 3177, 111 L. Ed. 2d 695 (1990). Finally, Robinson's argument that the magistrate judge overlooked all medical records from 2014 when assessing his urinary problems is

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without merit. The magistrate judge expressly referenced treatment notes from June 10, 2014; June 12, 2014; and August 25, 2014.

III. February 4, 2019 Summary Judgment in Favor of Remaining Defendants

A. Merling and Filion

On appeal, Robinson **[*16]** argues that Merling violated his First and Eighth Amendment rights and conspired with Filion by refusing to treat him in retaliation for filing grievances. He contends that an express agreement was not necessary to establish a conspiracy. Robinson also argues that the district court erred in concluding that Filion was unaware of his "bathroom concerns"; that Filion, as a nurse supervisor, should have been aware that he had a serious medical problem that was not being treated; and that Filion refused to investigate grievance URF 1608 2836 12E properly.

The district court properly granted summary judgment on Robinson's Eighth Amendment claims because there is abundant evidence in the record showing that Robinson continually received care for his urinary and prostate problems and that the care that he was given was not so inadequate as to amount to no treatment at all. *See Alspaugh*, 643 F.3d at 169. Robinson's disagreement with the way in which he was treated or the manner in which certain medical tests were performed states, at most, a medical malpractice claim and does not rise to the level of an Eighth Amendment violation. *See Estelle*, 429 U.S. at 105-06; *Darrah*, 865 F.3d at 372. Robinson's conspiracy claims were wholly conclusory. With respect to Filion, Robinson simply claims on appeal that she failed to intervene **[*17]** to ensure that he received adequate medical care and failed to investigate a grievance adequately. But allegations of a failure to act or investigate an administrative grievance or complaint adequately do not give rise to constitutional violations. *See Grinter v. Knight*, 532 F.3d 567, 576 (6th Cir. 2008).

B. Ross, Golladay, Cusick, and Benoit

Finally, Robinson argues that the district court erred by dismissing his claims against Ross, Golladay, Cusick, and Benoit because their enforcement of the top-of-the-hour bathroom policy violated his Eighth Amendment rights, as well as his Fourteenth Amendment equal-protection rights, because the policy was not enforced against white inmates. Relying on *McNeal v. Kott*, 590 F. App'x 566 (6th Cir. 2014), and *Simpson v. Overton*, 79 F. App'x 117 (6th Cir. 2003), the district court found that Robinson's equal-protection claim was conclusory and that the defendants were entitled to qualified immunity on Robinson's Eighth Amendment claim.

"The doctrine of qualified immunity protects government officials 'from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" *Pearson v. Callahan*, 555 U.S. 223, 231, 129 S. Ct. 808, 172 L. Ed. 2d 565 (2009) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982)). Here, the allegations in Robinson's complaint and the evidence in the record show, at most, that Robinson's requests to use the bathroom were denied on several occasions, **[*18]** and he was generally required to wait thirty minutes or less to use the bathroom, but on one occasion was required to wait one hour and twenty minutes. The district court properly found that these facts, even if true,

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did not show that Ross, Golladay, Cusick, and Benoit violated a clearly established statutory or constitutional right of which a reasonable person would have known. *See McNeal*, 590 F. App'x at 571.

The district court also did not err in finding that Robinson's equal-protection claim was wholly conclusory. Robinson stated in a "declaration" that Golladay twice allowed white inmates to use the bathroom at the bottom of the hour while refusing that privilege to black inmates. He alleged that Benoit once allowed a white inmate to do the same. He submitted a declaration from an inmate with the last name Mitchell, which stated that Golladay and Benoit denied him bathroom privileges for no valid reason. Robinson alleged no facts from which to infer that the two white prisoners who allegedly were permitted to use the bathroom at the bottom of the hour were similarly situated to him. *See Stimmel v. Sessions*, 879 F.3d 198, 212 (6th Cir. 2018).

IV. Motion to Appoint Counsel

Robinson has filed a motion to appoint counsel. Appointment of counsel in a civil case "is **[*19]** a privilege that is justified only by exceptional circumstance." *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993). No such exceptional circumstances exist here.

Accordingly, we **DENY** Robinson's motion to appoint counsel and **AFFIRM** the district court's judgment.

Footnotes

1 BPH is a "progressive enlargement of the prostate due to hyperplasia of both glandular and stromal components" that typically begins when a patient is in his fifties and "sometimes caus[es] obstructive or irritative symptoms" but "does not evolve into cancer." Stedmans Medical Dictionary, available on Westlaw at STEDMANS 425390 (updated Nov. 2014).

2 The exact date of the 2015 grievance is unclear.

Robinson v. Kandulski, 2020 U.S. App. LEXIS 6838

Copy Citation

United States Court of Appeals for the Sixth Circuit

March 4, 2020, Filed

Nos. 19-1221/1288

Reporter
2020 U.S. App. LEXIS 6838 *

ALBERT REGINALD ROBINSON, Plaintiff-Appellant, v. DR. ADAM KANDULSKI, et al., Defendants-Appellees.

Prior History: **Robinson v. Kandulski**, 2019 U.S. App. LEXIS 36364 (6th Cir. Mich., Dec. 6, 2019)

Counsel: **[*1]** Albert Reginald Robinson, Plaintiff - Appellant (19-1221), Pro se, Jackson, MI.

For MICHAEL P. MILLETTE, Physician Assistant (19-1221, 19-1288), Defendant - Appellee: Wedad Ibrahim, Ronald W. Chapman Sr., Chapman Law Group, Troy, MI.

For THERESA M. MERLING, Nurse, PENNY FILION, Nurse Supervisor, TIMOTHY ROSS, Correctional Officer, CHRISTOPHER GOLLADAY, Correctional Officer, JOSEPH CUSICK, Correctional Officer, JOCQUE BENOIT, Correctional Officer (19-1221, 19-1288), Defendants - Appellees: Austin Curtis Raines, Assistant Attorney General, Office of the Attorney General of Michigan, Lansing, MI.

Appendix B (45)

Albert Reginald Robinson, Plaintiff - Appellant (19-1288), Pro se, Jackson, MI.

Judges: Before: SUHRHEINTICH, COOK, and READLER, Circuit Judges.

Opinion

ORDER

Albert Reginald Robinson, a Michigan prisoner, has filed a petition for rehearing of this court's order of December 6, 2019, affirming the district court's judgment denying his civil rights complaint, filed pursuant to 42 U.S.C. § 1983.

Upon consideration, this panel concludes that it did not misapprehend or overlook any point of law or fact when it issued its order. *See* Fed. R. App. P. 40(a)(2).

We therefore **DENY** the petition for rehearing.

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