

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
TENNESSEE, EASTERN DIVISION

Kelvin Dowell v. Nurse David Kent Mathis, et al.

No. 1:22-cv-01009-JDB-jay (W.D. Tenn. Jan. 6, 2026) · No. 1:22-cv-01009-JDB-jay · Decided January 6, 2026

SUMMARY

The United States District Court for the Western District of Tennessee grants Dr. Mark Fowler’s Rule 12(b)(6) motion to dismiss Kelvin Dowell’s Second Amended Complaint and denies Dowell’s motion to appoint counsel as moot. The court concludes that the allegations concerning delayed and allegedly inadequate medical treatment do not plausibly establish deliberate indifference to serious medical needs under the Eighth Amendment.

CASE DETAILS

COURT	United States District Court for the Western District of Tennessee, Eastern Division
WRITING FOR THE COURT	J. Daniel Breen
JURISDICTION	United States District Court for the Western District of Tennessee, Eastern Division
DECIDED	January 6, 2026
DOCKET	1:22-cv-01009-JDB-jay
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant Dr. Mark Fowler moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the operative second amended complaint alleging deliberate indifference to serious medical needs under 42 U.S.C. § 1983 and the Eighth Amendment.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the Court accepted well-pleaded factual allegations as true, viewed the complaint in the light most favorable to the plaintiff, and determined whether the complaint stated a facially plausible claim for relief. The Court considered only the pleadings and documents attached to or incorporated into the complaint.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Kelvin Dowell v. Dr. Mark Fowler, Nurse David Kent Mathis, et al.

TOPICS

motions to dismiss

section 1983

prisoners rights

cruel and unusual punishment

health law

PRACTICE AREAS

civil rights

prisoner civil rights

constitutional law

health law

civil procedure

QUESTIONS PRESENTED

1. Whether Dowell plausibly alleged that Dr. Fowler acted with deliberate indifference to a serious medical need in violation of the Eighth Amendment.
2. Whether Fowler's alleged deviation from an outside hospital treatment plan, prescription delay, allegedly inadequate treatment, discouraging statements, and failure to respond to a medical message constituted deliberate indifference rather than negligence, medical malpractice, or disagreement over treatment.
3. Whether Dowell's motion to appoint counsel should remain pending after dismissal of the claim against Fowler.

HOLDINGS

1. Dowell failed to state a claim because the allegations did not plausibly establish that Fowler knowingly and consciously disregarded an excessive risk to Dowell's health or safety. Fowler's alleged treatment errors, treatment choices, and failure to follow the outside treatment plan amounted at most to negligence or disagreement over medical treatment, and Fowler provided examinations and treatment rather than completely denying care.
2. The motion to appoint counsel was denied as moot because the claim against Fowler was dismissed and judgment was directed to be entered.

KEY QUOTATIONS

"A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." (PageID 479)

"This state of mind is satisfied when "the official knows of and disregards an excessive risk to inmate health or safety."" (PageID 491)

"Discouraging suffering prisoners from filing medical grievances is not condoned by the Court." (PageID 498)

"For the reasons stated above, the Court finds that Plaintiff has not stated an Eighth Amendment deliberate indifference claim under § 1983 as to Dr. Fowler." (PageID 501)

FACTUAL BACKGROUND

While incarcerated, Dowell experienced severe abdominal pain, constipation, vomiting, a ruptured appendix with an abscess and infection, and later intestinal and hemorrhoid problems. He alleged that Dr. Fowler failed to follow a hospital-related antibiotic and appendectomy plan, delayed or mishandled prescriptions, provided allegedly inadequate treatment, made discouraging comments about Dowell's grievances, and failed to respond

to a medical message. The Court found that Fowler examined and treated Dowell on multiple occasions, prescribed or administered medications, and did not consciously disregard a substantial risk of serious harm.

PROCEDURAL HISTORY

Dowell filed a pro se § 1983 complaint on January 13, 2022, later amended it, and the first amended complaint was dismissed without prejudice. The Court dismissed part of the second amended complaint with prejudice, leaving Leslie Jones and Dr. Fowler as defendants. The Court granted Fowler's Rule 12(b)(6) motion, denied Dowell's motion to appoint counsel as moot, and directed the Clerk to enter judgment.

DISPOSITION

dismissed

CASES CITED

- *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 511 (2002)
- *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974)
- *Ammex, Inc. v. McDowell*, 24 F.4th 1072, 1079 (6th Cir. 2022)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Tennessee Valley Authority v. Fire Star Energy Resources, LLC*, 749 F. Supp. 3d 918, 921 (E.D. Tenn. 2024)
- *Total Benefits Planning Agency, Inc. v. Anthem Blue Cross & Blue Shield*, 552 F.3d 430, 433 (6th Cir. 2008)
- *Metro Government of Nashville & Davidson County v. Federal Emergency Management Agency*, No. 3:22-CV-540, 2024 WL 1337189, at *3 (M.D. Tenn. Mar. 28, 2024)
- *Herhold v. Green Tree Servicing, LLC*, 608 F. App'x 328, 331 (6th Cir. 2015)
- *Trzebuckowski v. City of Cleveland*, 319 F.3d 853, 855 (6th Cir. 2003)
- *Edwards v. Tennessee Valley Federal Credit Union*, No. 1:23-cv-233, 2024 WL 2981180, at *3 (E.D. Tenn. June 13, 2024)
- *Lewis Lumber & Milling, Inc. v. Mereen-Johnson, LLC*, No. 3:17-CV-00643, 2018 WL 6181356, at *2 (M.D. Tenn. Nov. 27, 2018)
- *Gavitt v. Born*, 835 F.3d 623, 640 (6th Cir. 2016)
- *Kreipke v. Wayne State University*, 807 F.3d 768, 774 (6th Cir. 2015)
- *Bassett v. National Collegiate Athletic Association*, 528 F.3d 426, 430 (6th Cir. 2008)
- *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam)
- *Littler v. Ohio Association of Public School Employees*, 88 F.4th 1176, 1180 (6th Cir. 2023)
- *Wilson v. Williams*, 961 F.3d 829, 839 (6th Cir. 2020)
- *Helling v. McKinney*, 509 U.S. 25, 31, 36 (1993)
- *Blackmore v. Kalamazoo County*, 390 F.3d 890, 895 (6th Cir. 2004)
- *Estelle v. Gamble*, 429 U.S. 97, 104-05 (1976)
- *Roberts v. City of Troy*, 773 F.2d 720, 723 (6th Cir. 1985)
- *Farmer v. Brennan*, 511 U.S. 825, 834, 837, 842, 844 (1994)

- Wilson v. Seiter, 501 U.S. 294, 298 (1991)
- Brown v. Bargery, 207 F.3d 863, 867 (6th Cir. 2000)
- Westmoreland v. Butler County, 29 F.4th 721, 726-27 (6th Cir. 2022)
- Jones v. Muskegon County, 625 F.3d 935, 944-45 (6th Cir. 2010)
- Gibson v. Moskowitz, 523 F.3d 657 (6th Cir. 2008)
- McCarthy v. Place, 313 F. App'x 810, 815 (6th Cir. 2008)
- Howell v. NaphCare, Inc., 67 F.4th 302, 313 (6th Cir. 2023)
- Darrah v. Krisher, 865 F.3d 361, 368 (6th Cir. 2017)
- Boretti v. Wiscomb, 930 F.2d 1150, 1154 (6th Cir. 1991)
- Miller v. Calhoun County, 408 F.3d 803, 819 (6th Cir. 2005)
- Selby v. Martin, 84 F. App'x 496, 499 (6th Cir. 2003)
- Hempstead v. Parker, No. 3:21-CV-417-TAV-DCP, 2023 WL 4280679, at *9 (E.D. Tenn. June 29, 2023)
- LeMarbe v. Wisneski, 266 F.3d 429, 439 (6th Cir. 2001)
- Rhinehart v. Scutt, 894 F.3d 721, 738, 742, 750 (6th Cir. 2018)