

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON,
MEDFORD DIVISION

Timothy McCarter v. State of Oregon by and through the Oregon
Department of Corrections, Leland Beamer, and John and Jane Does

I-III

McCarter · No. 3:24-cv-00900-CL · Decided May 14, 2026

SUMMARY

A magistrate judge recommends granting defendants’ motion for summary judgment in Timothy McCarter’s action alleging deliberate indifference to medical needs under 42 U.S.C. § 1983 and state-law negligence. The recommendation concludes that the claims are procedurally undefended, time-barred, and unsupported by evidence of deliberate indifference or negligence.

CASE DETAILS

COURT	United States District Court for the District of Oregon, Medford Division
WRITING FOR THE COURT	Mark D. Clarke, United States Magistrate Judge
JURISDICTION	United States District Court for the District of Oregon, Medford Division
DECIDED	May 14, 2026
DOCKET	3:24-cv-00900-CL
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought claims under 42 U.S.C. § 1983 for deliberate indifference to serious medical needs and under Oregon law for negligence. Defendants moved for summary judgment. The magistrate judge issued Findings and Recommendation recommending that the motion be granted.
STANDARD OF REVIEW	Summary judgment is appropriate when the record shows no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. The court may not weigh evidence or determine truth, must view evidence in the light most favorable to the nonmoving party, and requires the opposing party to identify specific facts showing a genuine issue for trial.

PRECEDENTIAL VALUE	nonprecedential
PARTIES	Timothy McCarter v. State of Oregon by and through the Oregon Department of Corrections, Leland Beamer, John and Jane Does I-III

TOPICS

summary judgment statute of limitations section 1983 prisoners rights negligence

PRACTICE AREAS

civil rights prisoner medical care civil procedure statute of limitations negligence

QUESTIONS PRESENTED

1. Whether defendants were entitled to summary judgment because McCarter failed to respond to the motion and therefore failed to identify a genuine dispute of material fact.
2. Whether McCarter's 42 U.S.C. § 1983 deliberate-indifference claim was barred by Oregon's two-year personal-injury statute of limitations.
3. Whether McCarter's Oregon negligence claim against a public body was barred by Oregon's two-year limitations period for tort claims.
4. Whether the undisputed evidence established that defendants were not deliberately indifferent to McCarter's medical needs and had not even acted negligently.

HOLDINGS

1. When a properly supported summary-judgment motion is unanswered, and the opposing party does not identify specific facts showing a genuine issue for trial, the factual record submitted by the movant is undisputed for purposes of the motion.
2. McCarter's § 1983 claim was time-barred because it accrued no later than June 3, 2022, when he knew or had reason to know of his injury and its cause, and he filed suit on June 5, 2024, after Oregon's two-year limitations period expired.
3. McCarter's Oregon negligence claim was time-barred because he knew of his injury and the allegedly tortious conduct by June 3, 2022, and did not file within Oregon's two-year limitations period for tort claims against a public body.
4. The undisputed evidence did not establish deliberate indifference, or even negligence, by defendants; therefore, McCarter's § 1983 claim failed on the merits.

KEY QUOTATIONS

“An issue of fact is genuine “if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.”” (2)

“Deliberate indifference requires that the prison official “knows of and disregards an excessive risk to inmate health and safety.”” (4)

“Negligence alone does not support a constitutional violation under § 1983.” (4)

“Because the undisputed record does not even amount to negligence, Plaintiff claims fail on the merits.” (5)

FACTUAL BACKGROUND

McCarter was incarcerated in the Oregon Department of Corrections from April 1, 2021, through May 20, 2024. After reporting vision problems on May 19, 2021, he was evaluated at Orion Eye Clinic, underwent surgery for a detached retina, and received three additional procedures and numerous follow-up appointments. On June 3, 2022, Dr. Constantine told him that a delay in repairing the detached retina likely caused long-term retinal damage. McCarter later filed claims alleging that ODOC officials failed to schedule follow-up treatment, but the undisputed record showed repeated medical appointments and no instance in which ODOC providers refused or declined recommended care.

PROCEDURAL HISTORY

McCarter filed the action on June 5, 2024, alleging that prison officials failed to schedule follow-up treatment for his eye condition. Defendants moved for summary judgment, and McCarter did not file a response within the time required by District of Oregon Local Rule 7-1(f). The magistrate judge recommended granting summary judgment because the claims were undisputedly supported by the record, time-barred, and insufficient on the merits. The recommendation was subject to referral to a district judge and a fourteen-day objection period.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand instructions. The magistrate judge recommended that the district judge grant defendants' motion for summary judgment.

CASES CITED

- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-50 (1986)
- Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)
- Devereaux v. Abbey, 263 F.3d 1070, 1076 (9th Cir. 2001) (en banc)
- Playboy Enterprises, Inc. v. Welles, 279 F.3d 796, 800 (9th Cir. 2002)
- Taylor v. List, 880 F.2d 1040, 1045 (9th Cir. 1989)
- Allen v. City of Los Angeles, 66 F.3d 1052, 1056 (9th Cir. 1995)
- Holt v. County of Orange, 91 F.4th 1013, 1018 (9th Cir. 2024)
- Bonneau v. Centennial School District No. 28J, 666 F.3d 577, 580 (9th Cir. 2012)
- Gregg v. Hawaii, Department of Public Safety, 870 F.3d 883, 885 (9th Cir. 2017)
- Dunn v. City of Milwaukie, 270 Or. App. 478, 484-85 (2015)
- Raethke v. Oregon Health Sciences University, 115 Or. App. 195, 198 (1992)

- Estelle v. Gamble, 429 U.S. 97, 103 (1976)
- Colwell v. Bannister, 763 F.3d 1060, 1066 (9th Cir. 2014)
- Toguchi v. Chung, 391 F.3d 1051, 1057 (9th Cir. 2004)
- Wakefield v. Thompson, 177 F.3d 1160, 1165 (9th Cir. 1999)
- Sandoval v. County of San Diego, 985 F.3d 657, 668 (9th Cir. 2021)
- Peralta v. Dillard, 744 F.3d 1076, 1086 (9th Cir. 2014) (en banc)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

McCarter

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

MEDFORD DIVISION

TIMOTHY MCCARTER,

Case No. 3:24-cv-00900-CL Plaintiff,

V. FINDINGS AND

RECOMMENDATION

STATE OF OREGON by and through the Oregon Department of Corrections, LELAND BEAMER, and JOHN and JANE

DOES I-III,

Defendants. CLARKE, Magistrate Judge Plaintiff Timothy McCarter is a self-represented litigant who was in the custody of the Oregon Department of Corrections (“ODOC”) at all times material to his complaint. He brings this complaint against Defendants the State of Oregon, Dr. Leland Beamer, and Does I-III. Defendants move for summary judgment. For the reasons below, Defendants’ Motion (ECF #36) should be GRANTED.

BACKGROUND

Self-represented Plaintiff Timothy McCarter was a prisoner of the ODOC from April 1, 2021, to May 20, 2024. Decl. Carter § 3, ECF No. 37. Defendant Leland Beamer is the chief medical officer of ODOC. First Am. Compl. § 6, ECF No. 13. On May 19, 2021, Plaintiff reported Page | - FINDINGS AND RECOMMENDATION : to health services complaining of vision problems. Decl. Carter 6. On May 20, Plaintiff was sent to Orion Eye Clinic (“Orion”) for evaluation, and Orion scheduled surgery for a detached retina. Id. 7-8. Surgery took place on May 25. Id. ¶ 9. Over roughly the next year, Plaintiff continued to report vision problems and underwent three more procedures at Orion. Id. §§ 10-33. After each procedure, Plaintiff attended follow-up appointments. Id. In all, between May 25, 2021, and June 3, 2022, Plaintiff attended 23 appointments at Orion. Id. On June 3, Plaintiff again attended an eye appointment at Orion and spoke with Dr. Constantine. Id. J 34. Dr. Constantine charted the discussion: “[d]iscussed with

patient that delay in RRD repair due to repair not scheduled by his facility likely resulted in long term retinal damage.” /d. at 61. Plaintiff attended one more appointment at Orion on September 19. /d. 4 35. Then, on December 14, Plaintiff was evaluated at Summit Health. Id. § 36. Summit Health recommended enucleation—removal—of Plaintiff's eye. Id. Plaintiff filed this action on June 5, 2024. Compl. 6, ECF No. 1. Plaintiff's complaint alleges a 42 U.S.C. § 1983 claim for deliberate indifference and a state-law claim for negligence. First Am. Compl. §§ 17-30. Defendants move for summary judgment. Defs.’ Mot. Summ. J., ECF No. 36.

LEGAL STANDARD

Summary judgment shall be granted when the record shows that there is no genuine dispute as to any material of fact and that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986). The moving party has the initial burden of showing that no genuine issue of material fact exists. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986); *Devereaux v. Abbey*, 263 F.3d 1070, 1076 (9th Cir. 2001) (en banc). The court cannot weigh the evidence or determine the truth but may only determine whether there

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is a genuine issue of fact. *Playboy Enters., Inc. v. Welles*, 279 F.3d 796, 800 (9th Cir. 2002). An issue of fact is genuine ““if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Anderson*, 477 U.S. at 248. When a properly supported motion for summary judgment is made, the burden shifts to the opposing party to set forth specific facts showing that there is a genuine issue for trial. Id. at 250. Conclusory allegations, unsupported by factual material, are insufficient to defeat a motion for summary judgment. *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). Instead, the opposing party must, by affidavit or as otherwise provided by Rule 56, designate specific facts which show there is a genuine issue for trial. *Devereaux*, 263 F.3d at 1076. In assessing whether a party has met its burden, the court views the evidence in the light most favorable to the non-moving party. *Allen v. City of Los Angeles*, 66 F.3d 1052, 1056 (9th Cir. 1995).

DISCUSSION

District of Oregon Local Rule of Civil Procedure 7-1(f) states, “a party must file and serve any response [to a motion for summary judgment] within 21 days after service of the motion.” LR 7-1(f). Defendants filed their motion on February 3, 2026. Now more than three months later, Plaintiff has failed to respond. For that reason alone, the factual record submitted by Defendants is undisputed and they are entitled to summary judgment. Although Plaintiff's failure to respond is alone grounds for summary judgment, Plaintiff's claims are also time-barred by the respective statutes of limitation and fail on the merits. Section 1983 claims adopt the forum state's statute of limitations for personal injury actions. *Holt v. Cnty. of Orange*, 91 F.4th 1013, 1018 (9th Cir. 2024). Thus, a § 1983 claim in Oregon has a limitations period of two years. See *Bonneau v. Centennial Sch. Dist.* No. 28J, 666 F.3d 577, 580 (9th Cir. 2012).

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Having established the limitations period, the question then becomes from what point is that two-year period measured—or when does the claim “accrue.” Under federal law, “a claim accrues when a plaintiff knows or has reason to know of the injury that is the basis of the action and the cause of that injury.” *Gregg v. Hawaii, Dep’t of Pub. Safety*, 870 F.3d 883, 885 (9th Cir. 2017). Thus, whether Plaintiff’s § 1983 claim is time-barred turns on whether he filed his action within two years of when he knew or should have known of his injury and its cause. Plaintiff knew or should have known of his injury and its cause on June 3, 2022. Plaintiff’s medical records indicate that Plaintiff discussed his “visual prognosis” with Dr. Ryan Constantine on that day. Decl. Carter at 61. The discussion included the fact “that delay in RRD repair due to repair not scheduled by his facility likely resulted in long term retinal damage.” *Id.* Plaintiff filed this action on June 4, 2024—one day after the limitations period had run.’ Compl. at 6. Because Plaintiff filed his § 1983 claim after the limitations period had run, the claim is time-barred. The same is true for Plaintiff’s state-law negligence claim. The statute of limitations for tort claims against a public body in Oregon is two years. ORS 30.275(9). Under Oregon law, a claim accrues when the plaintiff knows of the injury and the tortious conduct that caused it. See *Dunn v. City of Milwaukie*, 270 Or. App. 478, 484-85 (2015). The plaintiff need not know the full extent of his injuries before the statute of limitations begins to run. See *Raethke v. Oregon Health Scis. Univ.*, 115 Or. App. 195, 198 (1992). Here, while Plaintiff may not have understood the full extent of his injury until the prospect of enucleation came into view, it is undisputed that he had notice of the injury and the tortious | For computing time, one “exclude[s] the day of the event that triggers the period,” and counts every day, including the last day of the period. Fed. R. Civ. P. 6(a)(1). Because June 4, 2024, was a Tuesday (and not a weekend or a holiday), the last day for Plaintiff to file his § 1983 claim was that day, June 4, 2024 (two years and one day after June 3, 2022). *Id.*

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conduct that caused it during his conversation with Dr. Constantine on June 3, 2022. For that reason, Plaintiff’s negligence claim—like his § 1983 claim—is time-barred. Plaintiff’s claims also fails on the merits. ODOC does indeed have an obligation to provide medical care to prisoners. See *Estelle v. Gamble*, 429 U.S. 97, 103 (1976). But a violation of that obligation—and any accompanying § 1983 claim—requires “deliberate indifference” on the part of the defendant. *Id.* Deliberate indifference requires that the prison official “knows of and disregards an excessive risk to inmate health and safety.” *Colwell v. Bannister*, 763 F.3d 1060, 1066 (9th Cir. 2014) (quoting *Toguchi v. Chung*, 391 F.3d 1051, 1057 (9th Cir. 2004)). Negligence alone does not support a constitutional violation under § 1983. *Wakefield v. Thompson*, 177 F.3d 1160, 1165 (9th Cir. 1999). For example, “a prison official who ‘should have been aware’ of a medically related risk to an inmate, but in fact was not, ‘has not violated the Eighth Amendment, no matter how severe the risk.’” *Sandoval v. Cnty. of San Diego*, 985 F.3d 657, 668 (9th Cir. 2021) (quoting *Peralta v. Dillard*, 744 F.3d 1076, 1086 (9th Cir. 2014) (en banc)). Here, the undisputed facts do not even amount to negligence, let alone deliberate indifference. Plaintiff attended 23 medical appointments

related to his eye between May 25th, 2021—when the initial surgery was performed—and June 3rd, 2022—when Dr. Constantine made Plaintiff aware of his injury. Decl. Carter J] 10-33. At certain points, these appointments were a week apart or less. See, e.g., id. J] 14-16. When there was a multi-month gap, Plaintiff's subsequent visit to Orion was based on “new pain” that had reportedly emerged four days prior. Id. ¶¶ 19-20; id. at 134. Moreover, Ms. Carter declares that she can find no “instance in which Dr. Beamer, or any ODOC medical provider, refused or declined to approve the care that Orion recommended for Mr. McCarter.” Id. § 37. Plaintiff's claims here are not based on medical malpractice of ODOC medical staff, but that Defendants “fail[ed] to schedule follow up treatment

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at Orion.” Am. Compl. § 18. Because the undisputed record does not even amount to negligence, Plaintiff claims fail on the merits.’

RECOMMENDATION

Because Plaintiff failed to respond to Defendants’ Motion for Summary Judgment, and because his claims are time-barred and (2) fail on the merits, Defendants’ motion for summary judgment (ECF #36) should be GRANTED.

SCHEDULING

This Findings and Recommendation will be referred to a district judge. Objections, if any, are due no later than fourteen (14) days after the date this recommendation is entered. If objections are filed, any response is due within fourteen (14) days after the date the objections are filed. See FED. R. Civ. P. 72, 6. Parties are advised that the failure to file objections within the specified time may waive the right to appeal the District Court’s order. *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991), DATED this OLE Z

“MARK D. CLARKE

United States Magistrate Judge 2 Additionally, as noted above, Plaintiff first reported complaints of vision issues to prison staff on May 19, 2021. Carter Decl. { 6. Plaintiff was evaluated by Orion the very next day, with surgery that same week.

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