

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ILLINOIS

Douglas McGrew v. Dennis Larson

McGrew v. Larson · No. 3:23-CV-2171-MAB · Decided March 27, 2026

SUMMARY

The United States District Court for the Southern District of Illinois granted Dr. Dennis Larson’s motion for summary judgment in Douglas McGrew’s 42 U.S.C. § 1983 action alleging deliberate indifference to a respiratory condition and delayed diagnostic care. The court struck McGrew’s untimely motion for summary judgment, found that the delay in diagnostic imaging was substantially unjustified, but concluded that McGrew provided no evidence that the delay caused compensable harm. McGrew’s claim was dismissed with prejudice, and the case was ordered closed.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	Mark A. Beatty
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	March 27, 2026
DOCKET	3:23-CV-2171-MAB
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought an action under 42 U.S.C. § 1983 alleging that a prison physician was deliberately indifferent to his serious medical needs. After the amended complaint survived threshold review on an Eighth Amendment delay-in-treatment theory, the defendant moved for summary judgment and the plaintiff filed an untimely cross-motion for summary judgment.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. The evidence must be viewed in the light most favorable to the nonmoving party, with all reasonable inferences drawn in that party's favor.
PRECEDENTIAL VALUE	Unknown; memorandum and order from a federal district court with no reporter citation.

TOPICS

section 1983 prisoners rights cruel and unusual punishment summary judgment civil procedure

PRACTICE AREAS

civil rights constitutional law prisoner civil rights civil procedure health law

QUESTIONS PRESENTED

1. Whether Plaintiff's untimely motion for summary judgment should be stricken under the applicable filing deadline and whether its contents could nevertheless be construed as an opposition to Defendant's motion.
2. Whether Defendant was entitled to summary judgment on Plaintiff's Eighth Amendment deliberate-indifference claim based on the initial treatment provided for Plaintiff's respiratory symptoms.
3. Whether delays in obtaining diagnostic imaging and specialist care established deliberate indifference under the Eighth Amendment.
4. Whether Plaintiff presented evidence that the alleged delay caused harm that could have been avoided through earlier treatment.

HOLDINGS

1. A prisoner's summary-judgment motion filed two days after the court-ordered deadline was untimely and was properly stricken where the record showed that Plaintiff did not submit it for mailing until after the deadline.
2. Plaintiff failed to create a genuine issue of material fact that Dr. Larson was deliberately indifferent by initially treating his respiratory symptoms with prednisone and a medical lay-in rather than an albuterol inhaler.
3. The record permitted an inference that Dr. Larson acted with deliberate indifference because the months-long delay in reviewing abnormal imaging, obtaining further diagnostic testing, and arranging specialist care was an obvious and substantial departure from accepted medical judgment in the face of a serious risk of lung cancer.
4. Plaintiff could not prevail on the delay theory because he presented no evidence that the delay caused compensable harm, prolonged pain or symptoms, or worsened his condition.

KEY QUOTATIONS

"The delay is beyond the pale and "so obviously wrong" in the face of a serious risk of lung cancer that a layperson can draw the inference that it amounted to "a substantial departure from accepted medical judgment" without having to be told by an expert." (Discussion)

"Plaintiff's claim against Larson is DISMISSED with prejudice." (Conclusion)

FACTUAL BACKGROUND

McGrew was incarcerated at Big Muddy River Correctional Center and experienced shortness of breath, coughing, and wheezing after having COVID-19. Dr. Larson initially ordered a COVID test, prednisone, and a medical lay-in, later ordered diagnostic testing, and ultimately referred McGrew for a CT scan after an x-ray suggested a lesion. Although the diagnostic process involved substantial delays, subsequent imaging showed that the lung lesion decreased in size and was ultimately determined not to be cancerous. McGrew offered no evidence that the delays caused pain, prolonged symptoms, worsening of his condition, or other avoidable harm.

PROCEDURAL HISTORY

The court dismissed Plaintiff's original complaint for failure to state a claim. Plaintiff timely filed an amended complaint, and the court permitted him to proceed against Dr. Larson on an Eighth Amendment deliberate-indifference claim based on delayed treatment for a respiratory issue. The court struck Plaintiff's untimely summary-judgment motion, treated its contents as an opposition to Defendant's motion, found Defendant's motion to strike and Plaintiff's motion not to strike moot, granted Defendant's motion for summary judgment, dismissed the claim with prejudice, and directed entry of judgment and closure of the case.

DISPOSITION

dismissed

CASES CITED

- Taylor v. Brown, 787 F.3d 851, 858-59 (7th Cir. 2015)
- Ray v. Clements, 700 F.3d 993, 1002-03 (7th Cir. 2012)
- Stewart v. Wexford Health Sources, Inc., 14 F.4th 757, 760 (7th Cir. 2021)
- Hansen v. Fincantieri Marine Group, LLC, 763 F.3d 832, 836 (7th Cir. 2014)
- Armato v. Grounds, 766 F.3d 713, 719 (7th Cir. 2014)
- Maniscalco v. Simon, 712 F.3d 1139, 1143 (7th Cir. 2013)
- Reck v. Wexford Health Sources, Inc., 27 F.4th 473, 483 (7th Cir. 2022)
- Whiting v. Wexford Health Sources, Inc., 839 F.3d 658, 662-63 (7th Cir. 2016)
- Farmer v. Brennan, 511 U.S. 825, 837 (1994)
- McGee v. Adams, 721 F.3d 474, 481 (7th Cir. 2013)
- Petties v. Carter, 836 F.3d 722, 728-31 (7th Cir. 2016) (en banc)
- Holloway v. Delaware County Sheriff, 700 F.3d 1063, 1073 (7th Cir. 2012)
- Rasho v. Jeffreys, 22 F.4th 703, 710 (7th Cir. 2022)
- Rosario v. Brawn, 670 F.3d 816, 821 (7th Cir. 2012)
- Roe v. Elyea, 631 F.3d 843, 857 (7th Cir. 2011)
- Pyles v. Fahim, 771 F.3d 403, 409 (7th Cir. 2014)
- Goodlow v. Sood, 947 F.3d 1026, 1031 (7th Cir. 2020)
- Thomas v. Martija, 991 F.3d 763, 769 (7th Cir. 2021)
- Williams v. Liefer, 491 F.3d 710, 714-16 (7th Cir. 2007)

- Feazell v. Wexford Health Sources, Inc., 140 F.4th 438, 442 (7th Cir. 2025)
- Perez v. Fenoglio, 792 F.3d 768, 778 (7th Cir. 2015)
- Gil v. Reed, 381 F.3d 649, 662 (7th Cir. 2004)

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