

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Kevon Houston v. Nicole Brown and Lisa Payne

Houston v. Brown, No. 24-cv-112-wmc (W.D. Wis. Feb. 17, 2026) · No. 24-cv-112-wmc · Decided February 17, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin grants summary judgment to Nicole Brown and Lisa Payne in Kevon Houston’s 42 U.S.C. § 1983 action. The court holds that the failure to enter or communicate a temporary low-bunk restriction, even if negligent or grossly negligent, did not establish deliberate indifference under the Eighth Amendment.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	William M. Conley
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	February 17, 2026
DOCKET	24-cv-112-wmc
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a 42 U.S.C. § 1983 action alleging that prison health-services employees violated the Eighth Amendment by failing to ensure that a temporary low-bunk restriction was entered into institutional records and communicated to security personnel. Defendants moved for summary judgment; Payne also alternatively moved for judgment on the pleadings.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court viewed the evidence and reasonable inferences in the light most favorable to Houston, but required him to identify admissible evidence supporting a reasonable jury verdict.
PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Kevon Houston v. Nicole Brown, Lisa Payne

TOPICS

section 1983

prisoners rights

cruel and unusual punishment

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PRACTICE AREAS

civil rights

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QUESTIONS PRESENTED

1. Whether the failure to enter or communicate Houston's temporary low-bunk restriction constituted deliberate indifference to a serious medical need in violation of the Eighth Amendment.
2. Whether Health Services Manager Brown was personally involved in, or directly responsible for, the alleged constitutional deprivation.
3. Whether Nurse Payne's failure to ensure that the temporary restriction was entered into institutional records or communicated to security personnel amounted to more than negligence or medical malpractice.
4. Whether defendants were entitled to summary judgment under Federal Rule of Civil Procedure 56.

HOLDINGS

1. Brown was entitled to summary judgment because Houston presented no evidence that she personally participated in or was directly responsible for the failure to enter or communicate Payne's temporary low-bunk restriction, and supervisory status does not create vicarious liability under § 1983.
2. Payne was entitled to summary judgment because no reasonable jury could find that she intentionally failed to enter or communicate the temporary low-bunk restriction, and any failure was, at most, inadvertence, negligence, or medical malpractice rather than deliberate indifference.
3. Summary judgment was proper for both defendants because, viewing the evidence in Houston's favor, no reasonable jury could find an Eighth Amendment violation.

KEY QUOTATIONS

"Because the failure to enter plaintiff's lower bunk restriction timely in the DOC's electronic record was, at most, a negligent act, rather than one of deliberate indifference, the court will grant defendants' motions for summary judgment."

"To be held liable under 42 U.S.C. § 1983, a plaintiff must also prove the defendant's personal participation or direct responsibility for the alleged constitutional deprivation."

"And as already noted, inadvertent error, mere negligence, or ordinary malpractice do not rise to the level of deliberate indifference under the Eighth Amendment."

FACTUAL BACKGROUND

Houston, an incarcerated Wisconsin Department of Corrections prisoner with a lumbar disc bulge, requested renewal of a low-bunk restriction after transferring to New Lisbon Correctional Institution. On November 14, 2023, Nurse Payne temporarily approved a low-bunk restriction pending Special Needs Committee review, but

the restriction was not entered into the electronic records or communicated to security staff. Houston remained in an upper bunk and on November 30 fell while climbing down, sustaining an eyebrow abrasion and concussion. The evidence did not show that Brown was personally involved in the restriction or that Payne intentionally failed to record or communicate it.

PROCEDURAL HISTORY

The court previously granted Houston leave to proceed on an Eighth Amendment medical-care claim against Brown and Payne. After discovery, Brown and Payne separately moved for summary judgment. The court held that the evidence could establish, at most, negligence or inadvertence, not deliberate indifference, and granted both motions, directing the clerk to enter judgment for defendants and close the case.

DISPOSITION

other

CASES CITED

- Sanders v. Moss, 153 F.4th 557, 561 (7th Cir. 2025)
- Hedrich v. Bd. of Regents of Univ. of Wisconsin Sys., 274 F.3d 1174, 1178 (7th Cir. 2001)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Burton v. Kohn Law Firm, S.C., 934 F.3d 572, 579 (7th Cir. 2019)
- Arnett v. Webster, 658 F.3d 742, 760 (7th Cir. 2011)
- Moore v. Western Ill. Corr. Ctr., 89 F.4th 582, 590 (7th Cir.)
- Grant v. Trustees of Ind. Univ., 870 F.3d 562, 568 (7th Cir. 2017)
- Bordelon v. Bd. of Educ. of the City of Chicago, 811 F.3d 984, 989 (7th Cir. 2016)
- Estelle v. Gamble, 429 U.S. 97, 104 (1976)
- Pyles v. Fahim, 771 F.3d 403, 408-09, 412 (7th Cir. 2014)
- Clemons v. Wexford Health Sources, Inc., 106 F.4th 628, 635 (7th Cir. 2024)
- Seymour v. Kostchyz, No. 22-cv-170-jdp, 2022 WL 20328157, at *2 (W.D. Wis. Aug. 19, 2022)
- Klein v. O'Donnell, No. 19-cv-887-bbc, 2019 WL 11786778, at *3 (W.D. Wis. Dec. 30, 2019)
- Verrier v. Murphy, No. 19-cv-1812, 2020 WL 1975168, at *6 (E.D. Wis. Apr. 24, 2020)
- Perez v. Fenoglio, 792 F.3d 768, 776-77 (7th Cir. 2015)
- Farmer v. Brennan, 511 U.S. 825, 837-38 (1994)
- Petties v. Carter, 836 F.3d 722, 728 (7th Cir. 2016)
- Tackett v. Dauss, 132 F.4th 1026, 1030 (7th Cir. 2025)
- Brown v. Osmundson, 38 F.4th 545, 550 (7th Cir. 2022)
- Rasho v. Jeffreys, 22 F.4th 703, 710 (7th Cir. 2022)
- Rosario v. Brawn, 670 F.3d 816, 821 (7th Cir. 2012)
- Vance v. Peters, 97 F.3d 987, 992 (7th Cir. 1996)

- Mitchell v. Kallas, 895 F.3d 492, 498 (7th Cir. 2018)
- Wilson v. Warren Cnty., 830 F.3d 464, 469 (7th Cir. 2016)
- Colbert v. City of Chicago, 851 F.3d 649, 657 (7th Cir. 2017)
- Burks v. Raemisch, 555 F.3d 592, 595 (7th Cir. 2009)

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