

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

King v. Mayberg

334 F. App'x 802 (9th Cir. 2009) · Decided May 26, 2009

SUMMARY

The Ninth Circuit affirmed summary judgment for defendants in a 42 U.S.C. § 1983 action brought by a former civil detainee alleging denial of medical care in violation of the Fourteenth Amendment. The court held that the plaintiff failed to show that the treatment decisions constituted a substantial departure from accepted professional medical judgment or that insulin was medically required.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Berzon; Canby; Pregerson
JURISDICTION	Federal
DECIDED	May 26, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Pro se appeal from the district court's grant of summary judgment to defendants in a 42 U.S.C. § 1983 action alleging denial of medical care in violation of the Fourteenth Amendment Due Process Clause.
STANDARD OF REVIEW	De novo review of a grant of summary judgment.
PRECEDENTIAL VALUE	Nonprecedential unpublished memorandum
PARTIES	William King v. Mayberg, Defendants-Appellees

TOPICS

- section 1983
- due process
- civil rights
- appellate procedure
- standard of review

PRACTICE AREAS

- civil rights
- constitutional law
- health law
- appellate procedure

QUESTIONS PRESENTED

1. Whether summary judgment was proper on King's claim that defendants denied constitutionally adequate treatment for gastroesophageal reflux disease and rectal bleeding.

2. Whether summary judgment was proper on King's claim that defendants violated due process by failing to provide chemotherapy for undiagnosed bone marrow cancer.
3. Whether summary judgment was proper on King's claim that Dr. Shelton violated due process by failing to provide insulin for high blood glucose.

HOLDINGS

1. Summary judgment was proper because King failed to demonstrate a triable issue as to whether the treatment he received constituted a substantial departure from accepted professional judgment.
2. Summary judgment was proper because failing to treat a patient for an undiagnosed disease was not a substantial departure from professional medical judgment on the facts found by the district court.
3. Summary judgment was proper because King offered no medical evidence controverting Dr. Shelton's statement that insulin was not required.

KEY QUOTATIONS

"A difference of opinion between a prisoner-patient and prison medical authorities regarding treatment does not give rise to a § 1983 claim." (804)

FACTUAL BACKGROUND

William King was formerly a civil detainee at Atascadero State Hospital. He alleged that defendants denied or inadequately provided medical care for gastroesophageal reflux disease, rectal bleeding, bone marrow cancer, and high blood glucose. The record included medical judgments that treatment for the diagnosed conditions was adequate, that chemotherapy was not indicated for an undiagnosed disease, and that insulin was not required for King's blood glucose level.

PROCEDURAL HISTORY

The district court granted defendants summary judgment on King's claims concerning treatment for gastroesophageal reflux disease, rectal bleeding, alleged failure to provide chemotherapy for bone marrow cancer, and denial of insulin for high blood glucose. King appealed, and the Ninth Circuit reviewed the summary judgment ruling de novo and affirmed.

DISPOSITION

affirmed

CASES CITED

- *Aguilera v. Baca*, 510 F.3d 1161, 1167 (9th Cir. 2007)
- *Youngberg v. Romeo*, 457 U.S. 307, 323 (1982)
- *Franklin v. Oregon, State Welfare Division*, 662 F.2d 1337, 1344 (9th Cir. 1981)

OPINION

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PER CURIAM.

MEMORANDUM **

William King, a former civil detainee at Atascadero State Hospital, appeals pro se from the district court's summary judgment for defendants in his 42 U.S.C. § 1983 action alleging that he was denied medical care in violation of the Due Process Clause of the Fourteenth Amendment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a grant of summary judgment. *Aguilera v. Baca*, 510 F.3d 1161, 1167 (9th Cir.2007). We affirm. The district court properly granted summary judgment on King's claims that *804defendants denied him care for gastroesophageal reflux disease and rectal bleeding because King failed to demonstrate a triable issue as to whether the treatment he received constituted a "substantial departure from accepted professional judgment." *Youngberg v. Romeo*, 457 U.S. 307, 323, 102 S.Ct. 2452, 73 L.Ed.2d 28 (1982). The district court properly granted summary judgment on King's claim that defendants denied him chemotherapy for bone marrow cancer because, as the district court found, it was not a substantial departure from professional medical judgment to fail to treat a patient for an undiagnosed disease. The district court properly granted summary judgment on King's claim that Dr. Shelton denied him insulin to address his high blood glucose level because King offered no medical evidence controverting Dr. Shelton's statements that insulin was not required. See *Franklin v. Or., State Welfare Div.*, 662 F.2d 1337, 1344 (9th Cir.1981) ("A difference of opinion between a prisoner-patient and prison medical authorities regarding treatment does not give rise to a § 1983 claim."). AFFIRMED. This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.