

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Michael Miller v. John Keast, et al.

Miller v. Keast · No. 3:23-cv-00371-MMD-CSD · Decided January 7, 2026

OPINION

1 2 3 UNITED STATES DISTRICT COURT 4 DISTRICT OF NEVADA 5 * * * 6 MICHAEL
MILLER, Case No.: 3:23-cv-00371-MMD-CSD 7 Plaintiff, ORDER v. 8 JOHN KEAST, et al., 9
Defendants. 10 11 I. SUMMARY 12 Pro se Plaintiff Michael Miller, who is currently incarcerated
in the custody of the 13 Nevada Department of Corrections at Northern Nevada Correctional
Center (“NNCC”), 14 filed a civil rights complaint (ECF No. 1-1 (“Complaint”)) under 42 U.S.C.
§ 1983 against 15 John Keast, Dr. Halki, Jessica Rambur, and Jane Doe Scheduler for events that
allegedly 16 occurred while incarcerated at High Desert State Prison (“HDSP”).

(ECF Nos. 1, 1-1.) 17 Following screening of Miller’s first amended complaint (“FAC”) (ECF No.
5), the Court 18 allowed him to proceed on a First Amendment retaliation claim against Dr. Halki
and an 19 Eighth Amendment deliberate indifference to serious medical needs claim against Dr.
20 Halki, Director of Nursing Keast, and Lieutenant Hartman (whom he alleges denied his 21
grievance on the issue) regarding Miller’s need for skin grafts, eyelid reconstruction 22 surgery,
removal of soft tissue expander, and pain management for his burns and related 23 conditions.1
(ECF No. 6 (“Screening Order”).)

Defendants subsequently filed a motion for 24 summary judgment asserting that: (1) Miller’s
Eighth Amendment claim fails for lack of 25 26 1Miller subsequently filed motions for temporary
restraining order and preliminary injunction asserting lack of adequate treatment for pain
management and seeking an 27 order that he be sent to an outside medical facility for his
conditions, including burns, the eye condition, and orthopedic and gastric issues.

(ECF Nos. 11, 12.) The Court denied 28 1 injury or causation; (2) Miller’s First Amendment
retaliation claim fails due to insufficient 2 evidence that Dr. Halki took adverse action against him
or that Dr. Halki had knowledge 3 of Miller’s protected conduct; (3) Miller failed to exhaust his
administrative remedies; (4) 4 Defendant Hartman did not personally participate in violating
Miller’s rights; and (5) 5 Defendants are entitled to qualified immunity.2 (ECF No. 71
 (“Motion”).)

Before the Court 6 is the Report and Recommendation (“R&R”) of United States Magistrate
Judge Craig S. 7 Denney (ECF No. 80), recommending the Court grant the Motion in part and
deny it in 8 part. (ECF No. 80 at 1, 22.)

To date, no objections to the R&R have been filed. Because 9 there is no objection, and, as further explained below, the Court will adopt the R&R in full. 10 II. RELEVANT BACKGROUND 11 A. Miller's Allegations 12 The Court previously screened Miller's Complaint (ECF No. 1-1) and found that it 13 stated a colorable retaliation claim under the First Amendment against Dr. Halki and a 14 colorable Eighth Amendment deliberate indifference to serious medical needs claim 15 against Dr. Halki, Director of Nursing Keast, and Lieutenant Hartman.

(ECF No. 6.) The 16 following facts are taken from the Court's Screening Order and adapted from the 17 Complaint.³ 18 Miller alleges that he suffered extensive burn injuries as a child and required 19 ongoing skin grafts and eyelid surgery. (Id. at 3-4.) He further alleges that, while detained 20 and awaiting trial, a tissue expander was placed that later required removal.

(Id. at 4.) 21 Miller alleges that Defendants were aware of these specialized medical needs but failed 22 to provide appropriate treatment despite his repeated requests for care and pain 23 medication. (Id.) 24 Miller further alleges that Dr. Halki was responsible for his medical care during 25 portions of his incarceration at HDSP but failed to provide the necessary treatment (i.e., 26 for skin grafts, eyelid reconstruction surgery, removal of tissue expander) to address his 27 2Plaintiff filed a response (ECF No. 78), and Defendants replied (ECF No. 79).

28 1 extreme pain. (Id.) Moreover, Miller claims that, because Dr. Halki appeared intoxicated 2 and smelled of alcohol during medical appointments, Miller reported his concerns to 3 prison staff. (Id. at 4-5.) According to Miller, Dr. Halki's failure to treat him and provide him 4 with pain medications was retaliatory as a result. (Id. at 7.) Miller further alleges that 5 Defendant Keast, as Director of Nursing and supervisor of Dr. Halki, permitted him to 6 continue providing medical care despite Miller's complaints.⁴ (Id. at 5.)

Finally, Miller 7 asserts that he filed an informal-level grievance (Grievance No. 20063154665) on July 5, 8 2023, regarding the ongoing failure to address his medical needs, which Defendant 9 Lieutenant Hartman denied.⁵ (Id. at 4.) 10 III. DISCUSSION 11 Because there is no objection, the Court need not conduct de novo review and is 12 satisfied that Judge Denney did not clearly err.

See *United States v. Reyna-Tapia*, 328 13 F.3d 1114, 1116 (9th Cir. 2003) ("De novo review of the magistrate judges' findings and 14 recommendations is required if, but only if, one or both parties file objections to the 15 findings and recommendations." (emphasis in original)).

First, the Court will address 16 Judge Denney's recommendations as to the Eighth Amendment deliberate indifference 17 to serious medical needs claim against Lieutenant Hartman, Keast, and Dr. Halki, 18 including Defendants' exhaustion⁶ and qualified immunity arguments, before turning to 19 the First Amendment retaliation claim against Dr. Halki. 20 /// 21 4According to his declaration, Keast previously served as Director of Nursing at 22 NNCC, where his duties were primarily administrative and did not include supervising physicians, including Dr. Halki.

(ECF No. 71-8.) 23 24 5Defendants respond that Miller filed a grievance assigned to Jessica Rambur and Christy Coss. (ECF No. 71 at 9; see also ECF No. 71-1 at 4.) Although Hartman, as 25 grievance coordinator, knew a grievance had been filed, he did not personally respond and had no independent knowledge of Miller's medical condition. (ECF No. 71 at 9.) 26 Hartman, who is neither medically trained nor part of the prison medical staff, simply 27 forwarded Miller's grievance to the appropriate party.

(ECF No. 71-7.) 28 6The Magistrate Judge only addresses exhaustion as to the Eighth Amendment 1 A. Eighth Amendment Deliberate Indifference to Serious Medical Needs 2 Claim 3 Judge Denney analyzes Defendants' Motion on the Eighth Amendment deliberate 4 indifference to serious medical needs claim against Lieutenant Hartman, Keast, and Dr. 5 Halki and recommends granting the Motion in Hartman's and Keast's favor and in part as 6 to Dr. Halki.7 (See ECF No. 80 at 5-9.)

Judge Denney recommends denying the Motion 7 as to the portion of the claim arising from Dr. Halki's alleged failure to respond to Miller's 8 need for plastic surgery (i.e., skin grafts, eyelid surgery, and tissue expander removal) 9 (id. at 12-13) before turning to Defendants' qualified immunity (id. at 13-14) and 10 exhaustion (id. at 15-22) arguments.

Having reviewed this portion of the R&R, Judge 11 Denney did not clearly err. 12 First, Judge Denney recommends the Court grant summary judgment in 13 Lieutenant Hartman's favor based on an absence of genuine dispute of material fact that 14 Hartman was aware of and deliberately disregarded a risk to Miller's health. (ECF No. 80 15 at 7.) Liability under Section 1983 claims requires a "showing of personal participation in 16 the alleged rights deprivation," see *Jones v. Williams*, 297 F.3d 930, 934 (9th Cir.

2002), 17 and, here, there is insufficient evidence that Harman's involvement rose to the level of 18 "personal participation," as he did not review, investigate, or respond to Miller's 19 grievances. (Id.) The Court agrees and will grant Defendants' Motion on the issue of 20 Eighth Amendment deliberate indifference as applied to Lieutenant Hartman. 21 As to Keast's alleged involvement in the Eighth Amendment violation, Judge 22 Denney likewise concludes that Miller fails to raise a genuine dispute of material fact given 23 Keast's lack of supervisory authority.

(ECF No. 80 at 8.) Specifically, Miller offers 24 25 7Miller's Eighth Amendment allegations against Dr. Halki are two-fold: (1) Dr. Halki refused to prescribe sufficient pain medication to alleviate his extreme pain; and (2) Dr. 26 Halki failed to respond to his need for medical treatment (i.e., skin grafts, eyelid 27 reconstruction surgery, and tissue expander removal).

(ECF No. 80 at 8.) The Magistrate Judge recommends granting summary judgment in Dr. Halki's favor on the Eighth 28 Amendment deliberate indifference claim only as it relates to the pain medication. (Id. at 1 insufficient evidence that Keast supervised Dr. Halki or was aware of

Miller's medical condition or any complaints concerning Dr. Halki, nor does he address Keast's declaration regarding his role as Director of Nursing, including his lack of supervisory duties.

(Id.; see also ECF No. 71-8.) Accordingly, the Court will grant Defendants' Motion as applied to Keast. Next, Judge Denney recommends granting summary judgment in Defendant Dr. Halki's favor on the Eighth Amendment deliberate indifference claim as it relates to prescribed pain medication. (ECF No. 80 at 11.)

The record contradicts Miller's assertion that Dr. Halki refused to prescribe anything other than ibuprofen; rather, the evidence shows that Dr. Halki prescribed Baclofen—a pain management medication—after Miller failed to tolerate Elavil. (Id. at 9; see also ECF No. 71-6.)

Thus, the undisputed evidence does not support a finding of deliberate indifference with respect to Dr. Halki's role in pain management. (ECF No. 80 at 11.) The Court agrees and, accordingly, will grant summary judgment in Dr. Halki's favor on this aspect of the Eighth Amendment claim. Separately, Judge Denney recommends denying the Motion as to Dr. Halki's alleged failure to timely respond to Miller's need for medical treatment—specifically, for plastic surgery for skin grafts, eyelid surgery, and tissue expander removal.

(Id. at 12-13.) It is undisputed that Miller did not receive a plastic surgery consultation until January 26, 2024. (Id. at 12.) As the Magistrate Judge correctly explains, although Dr. Halki may not have caused the entire delay, there is a genuine dispute of material fact as to whether he bears responsibility for at least a portion of that delay, which likely led to further injury. (Id. at 13.)

Accordingly, the Court will deny summary judgment on the Eighth Amendment claim against Dr. Halki arising from the delay in Miller's receipt of a plastic surgery consultation. // Delay in providing medical care is actionable where it leads to further injury. See Judge Denney further concludes that Dr. Halki is not entitled to immunity on the Eighth Amendment deliberate indifference claim proceeding against him. (Id.)

As discussed above, Dr. Halki likely contributed to the delay in Miller's medical treatment. (Id.) As a result, the Court agrees that Dr. Halki violated Miller's clearly established Eighth Amendment rights when he acted with deliberate indifference to Miller's serious medical needs by delaying necessary medical care, where such delay likely resulted in further injury.

(See id.) For this reason, the Court rejects the qualified immunity defense and will, as stated, deny summary judgment on the Eighth Amendment claim against Dr. Halki arising from the delayed medical treatment. Judge Denney further recommends denying Defendants' exhaustion argument. Although Miller did not timely complete the grievance process for his initial grievance (Grievance No. 20063142838) regarding the delayed plastic surgery consultation for skin grafts, eyelid, and tissue expander removal (see id. at 10, 19), Judge

Denney notes that administrative remedies were ultimately rendered unavailable to him.^{11 15} (Id. at 20-21.)

That is, prison officials repeatedly rejected or declined to accept his ¹⁶ grievances on contradictory procedural grounds (id. at 21), which foreclosed meaningful ¹⁷ access to the grievance process such that “no ordinary prisoner [could] make sense of ¹⁸ what [the remedy] demands.” See *Ross v. Blake*, 578 U.S. 632, 644 (2016) (internal ¹⁹ citation omitted).

As a result, the Court agrees that, because administrative remedies ^{20 21 9}To determine whether qualified immunity applies, the Court must consider “(1) whether the official violated a constitutional right and (2) whether the constitutional right ²² was clearly established.” *C.B. v. City of Sonora*, 769 F.3d 1005, 1022 (9th Cir. 2014) ²³ (internal citation omitted).

^{24 10}The Magistrate Judge only addresses exhaustion as to the remaining Eighth Amendment claim that is recommended to proceed against Dr. Halki. (ECF No. 80 at 15.) ^{25 11}The Prison Litigation Reform Act requires proper exhaustion. See *Woodford v. Ngo*, 548 U.S. 81, 89 (2006) (quoting *Pozo v. McCaughtry*, 286 F.3d 1022, 1024 (7th Cir. ²⁷ 2002)) (“proper exhaustion” means “using all steps the agency holds out”); but see *Sapp v. Kimbrell*, 623 F.3d 813, 821-27 (explaining proper exhaustion, and recognizing an ²⁸ exception to the requirement where a prison official renders administrative remedies ¹ were effectively unavailable to Miller before he filed his operative amended complaint, ² Defendants have not met their burden on exhaustion, and summary judgment on this ³ ground must be denied.

Accordingly, the Court rejects Defendants’ exhaustion argument ⁴ and, as stated, will deny the remaining Eighth Amendment claim against Dr. Halki. ^{5 B. First Amendment Retaliation Claim 6} Judge Denney recommends granting summary judgment in Dr. Halki’s favor on ⁷ the First Amendment retaliation claim¹², concluding that there is no genuine dispute of ⁸ material fact that Dr. Halki retaliated against Miller by denying him medical treatment.

⁹ (ECF No. 80 at 14-15.) In particular, Judge Denney notes that because Miller fails to ¹⁰ present sufficient evidence that Dr. Halki was aware of his reports to prison staff that the ¹¹ doctor smelled like alcohol during medical visits, Miller cannot show that his reporting ¹² motivated the retaliatory conduct in question. (Id.)

The Court agrees with Judge Denney ¹³ that Defendants have met their initial burden on summary judgment and, therefore, will ¹⁴ grant the Motion as to Defendants’ causation arguments surrounding the First ¹⁵ Amendment retaliation claim.^{13 16 /// 17 /// 18 12}The First Amendment guarantees prisoners the right to “seek redress of grievances from prison authorities.” *Jones*, 791 F.3d at 1035 (internal citations omitted).

¹⁹ To succeed on a § 1983 retaliation claim for engaging in activity protected by the First ²⁰ Amendment in the prison context, a plaintiff must make: “(1) [a]n assertion that a state actor took

some adverse action against an inmate (2) because of (3) that prisoner's 21 protected conduct, and that such action (4) chilled the inmate's exercise of his First Amendment rights, and (5) the action did not reasonably advance a legitimate correctional 22 goal." Id. (citing *Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir.

2005)). "A plaintiff 23 must show that his protected conduct was the 'substantial' or 'motivating' factor behind the defendant's conduct." *Brodheim v. Cry*, 584 F.3d 1262, at 1271 (9th Cir. 2009) (citing 24 *Soranno's Gasco, Inc. v. Morgan*, 874 F.2d 1310, 1314 (9th Cir.1989)). 25 13The moving party bears the burden of showing that there are no genuine issues of material fact.

See *Zoslaw v. MCA Distrib. Corp.*, 693 F.2d 870, 883 (9th Cir. 1982). To 26 satisfy their initial burden, here, Defendants may present evidence to negate an essential 27 element of Miller's claim or demonstrate that Miller cannot establish an element of his claim upon which he has the burden of proof at trial. See *Celotex Corp. v. Cartrett*, 477 28 U.S. 317, 323-25 (1986) ("[A] complete failure of proof concerning an essential element 1 Moreover, Miller argues in his opposition that the "paperwork, medical records, and 2 course of action" demonstrate that Dr. Halki failed to provide medical care.

(ECF No. 80 3 at 14; see also ECF No. 79 at 4). However, as Judge Denney correctly points out, 4 because Miller is unable to show that Dr. Halki knew of the reporting, he cannot provide 5 sufficient evidence to establish a causal link between the alleged adverse action, i.e., the 6 retaliatory denial of medical treatment, and the protected conduct, i.e., the reporting of 7 the alleged misconduct related to alcohol.

(ECF No. 80 at 15.) Even viewing the record in 8 the light most favorable to Miller¹⁴, the Court finds that a reasonable juror could similarly 9 conclude that the protected conduct could not have caused or motivated the alleged 10 adverse action.

The Court will therefore grant the Motion as to Defendants' arguments 11 concerning the retaliation claim against Dr. Halki. 12 /// 13 /// 14 /// 15 /// 16 /// 17 /// 18 /// 19 /// 20 /// 21 /// 22 /// 23 /// 24 /// 25 /// 26 /// 27 14In evaluating a summary judgment motion, a court views all facts and draws all 28 inferences in the light most favorable to the nonmoving party.

Kaiser Cement Corp. v. 1 || IV. CONCLUSION 2 It is therefore ordered that Judge Denney's Report and Recommendation (ECF 3 || No. 80) is accepted and adopted in full. 4 It is further ordered that Defendants' motion for summary judgment (ECF No. 71) 5 || is granted in part and denied in part.

The Motion is granted as to the Eighth Amendment 6 || claim against Defendants Hartman and Keast and against Dr. Halki related only to the 7 || pain medication, and as to the First Amendment retaliation claim against Dr. Halki.

The 8 || Motion is denied as to the Eighth Amendment claim against Dr. Halki based on the delay
9 || in Miller's receipt of a plastic surgery consultation regarding his skin grafts, eyelid surgery, 10
|| and tissue expander removal. 11 It is further ordered that this case is referred to the Magistrate
Judge to conduct a 12 || settlement conference.

The proposed joint pretrial order will be due within 30 days from 13 || the settlement conference,
assuming settlement is not effectuated. 14 DATED THIS 7" Day of January 2026. 16 17
18 UNITED STATES DISTRICT JUDGE 19 20 21 22 23 24
25 26 27 28