

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-7132

September Term, 2019

FILED ON: February 4, 2020

KEITH ANDERSON,
APPELLANT

v.

DISTRICT OF COLUMBIA, A MUNICIPAL CORPORATION, ET AL.,
APPELLEE

Appeal from the United States District Court
for the District of Columbia
(No. 1:17-cv-02131)

Before: GARLAND, *Chief Judge*, GRIFFITH, *Circuit Judge*, and WILLIAMS, *Senior Circuit Judge*.

J U D G M E N T

This case was considered on the record from the United States District Court for the District of Columbia and the briefs of the parties. The Court has accorded the issues full consideration and has determined that they do not warrant a published opinion. See D.C. CIR. R. 36(d). For the reasons set out below, it is

ORDERED and **ADJUDGED** that the decision of the district court be **AFFIRMED**.

Keith Anderson has long suffered from mental-health issues that have caused him to “occasionally run afoul of the law.” Compl. ¶¶ 21-22, J.A. 9. In late 2015 and early 2016, Anderson was charged in District of Columbia Superior Court with kidnapping and burglary. On April 21, 2016, the Superior Court Judge found Anderson incompetent to stand trial and committed him to Saint Elizabeths Hospital. Anderson claims that the hospital’s medical staff failed to provide adequate medical care because they did not prescribe him psychotropic medication until July 17, nearly three months after his arrival.

Following his October 18 release from Saint Elizabeths, Anderson sued the District of Columbia (the “District”) and several of its officers, asserting three violations of his constitutional rights under 42 U.S.C. § 1983. The operative complaint alleges (1) a violation of his Eighth Amendment right “to timely and adequate medical treatment,” Compl. ¶ 58, J.A. 17; (2) a violation

of his Fifth Amendment right to “essential care,” Compl. ¶ 64, J.A. 19; and (3) a separate violation of his Fifth and Eighth Amendment rights caused by the District’s failure “to properly train or supervise medical personnel,” Compl. ¶ 84, J.A. 22. The district court dismissed Anderson’s complaint for failure to state a claim. *See* FED. R. CIV. P. 12(b)(6). Anderson timely appealed, and our review is de novo. *See Carter v. Wash. Metro. Area Transit Auth.*, 503 F.3d 143, 145 (D.C. Cir. 2007).

We begin with Anderson’s argument that the District violated his Eighth Amendment right to adequate medical care. To state such a claim, Anderson must allege that medical staff at Saint Elizabeths committed “acts or omissions sufficiently harmful to evidence deliberate indifference to [his] serious medical needs.” *Brown v. District of Columbia*, 514 F.3d 1279, 1283 (D.C. Cir. 2008) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)). This “deliberate indifference” standard is demanding. It is not satisfied by a complaint of “inadvertent failure to provide adequate medical care,” or by allegations that a “physician has been negligent in diagnosing or treating a medical condition.” *Estelle*, 429 U.S. at 105-06. Instead, a complainant must allege that “officials had subjective knowledge of the serious medical need and recklessly disregarded the excessive risk to inmate health or safety from that risk.” *Baker v. District of Columbia*, 326 F.3d 1302, 1306 (D.C. Cir. 2003).

Anderson claims that the hospital’s “failure to prescribe him psychotropic medications rises to deliberate indifference.” Compl. ¶ 60, J.A. 18. Anderson’s strongest evidence of deliberate indifference is that (1) Anderson “was previously prescribed [psychotropic medication] but ha[d] discontinued his medication regimen,” Compl. ¶ 34, J.A. 11; (2) a court-appointed psychologist, Holly Casazza, believed that Anderson remained incompetent to stand trial because “he [was] not being prescribed any medications,” Compl. ¶ 38, J.A. 13; and (3) Casazza contacted Anderson’s counsel “to inform him that as part of Mr. Anderson’s competency restoration, he was to receive medication, but Saint Elizabeths had failed to provide Mr. Anderson with that medication,” Compl. ¶ 40, J.A. 14.

None of these allegations, however, rises to the demanding standard of deliberate indifference. At best, the allegations suggest that medical staff at Saint Elizabeths knew that *other* medical professionals believed that psychotropic medications would benefit Anderson. But Anderson’s physician at Saint Elizabeths, Dr. Benjamin Adewale, disagreed. He concluded that Anderson “would not respond to psychotropic medications.” Compl. ¶ 47, J.A. 15. Instead, the medical staff at Saint Elizabeths provided other treatment, including “medication for sleep” and “competency restoration unit based groups.” Compl. ¶ 38, J.A. 13. The complaint alleges no grounds to doubt that Dr. Adewale’s decision to forego psychotropic medication for other “forms of treatment” was a “matter for medical judgment.” *Estelle*, 429 U.S. at 107. Such a judgment, even if arguably negligent, does not indicate deliberate indifference to Anderson’s medical needs. *See id.*; *Brown*, 514 F.3d at 1283. Accordingly, Anderson’s Eighth Amendment claim fails.

Anderson’s other two claims fail for the same reason. First, his Fifth Amendment claim fails because the district court concluded—and Anderson does not dispute—that the same deliberate indifference standard governs that claim. J.A. 96. Second, Anderson’s municipal-liability claim fails because he cannot allege “a predicate claim of deliberate indifference.” *Baker*, 326 F.3d at 1306. Accordingly, we do not address the district court’s conclusion that Anderson

also failed to allege that “a custom or policy of the municipality caused the violation.” J.A. 98-100.

For the foregoing reasons, we affirm the district court’s order granting the District’s motion to dismiss for failure to state a claim.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. *See* FED. R. APP. P. 41(b); D.C. CIR. R. 41(a)(1).

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk