

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 00-3293

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Tad Mason,

Appellant,

v.

Hoyt Brill; Linda G. Cooper;  
P. O'Malley; Mr. Ronning;  
Ms. Davidson; David L. Myers;  
Johnny Riches; Mr. Rowe; John Does,  
1-50; Jane Does, 1-50,

Appellees.

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\* Appeal from the United States  
\* District Court for the  
\* District of Minnesota.  
\* [UNPUBLISHED]  
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Submitted: July 19, 2001

Filed: July 27, 2001

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Before WOLLMAN, Chief Judge, MORRIS SHEPPARD ARNOLD, and BYE,  
Circuit Judges.

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PER CURIAM.

Tad Mason, a prisoner, appeals the district court's<sup>1</sup> adverse grant of summary judgment in his 42 U.S.C. § 1983 action, in which he claimed that prison officials failed

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<sup>1</sup>The Honorable Ann D. Montgomery, United States District Judge for the District of Minnesota.

to protect him from an attack by other prisoners in violation of the Eighth Amendment. We affirm.

We reject Mason's assertion that the district court abused its discretion in staying discovery; we note that Mason did not move for a continuance and identify what discovery was lacking that prevented him from adequately resisting summary judgment. See Fed. R. Civ. P. 26(c) (to protect party from undue burden or expense of discovery, district court "may make any order which justice requires"); Dulany v. Carnahan, 132 F.3d 1234, 1238 (8th Cir. 1997) (standard of review; under Fed. R. Civ. P. 56(f), party opposing summary judgment may seek continuance by filing affidavit showing what specific facts further discovery might unveil).

We also conclude that the district court correctly granted summary judgment. See Kurtz v. City of Shrewsbury, 245 F.3d 753, 756-57 (8th Cir. 2001) (de novo standard of review). The evidence does not show that defendants knew of any particular risk to Mason that they disregarded by not assigning him to protective custody upon his arrival at the prison. See Farmer v. Brennan, 511 U.S. 825, 838 (1994) (official's failure to alleviate significant risk that he should have perceived but did not is not punishment). Further, the evidence does not show that defendants were deliberately indifferent for not continuously monitoring the weight room, where Mason was attacked. Cf. Steidl v. Gramley, 151 F.3d 739, 741 (7th Cir. 1998) (absence of guards in towers and catwalk overlooking prisoner's unit at time of attack did not give rise to liability on warden's part).

The judgment is affirmed.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.