

United States Court of Appeals
For the Eighth Circuit

No. 15-1380

Norlyn Stanley Nelson

Plaintiff - Appellant

v.

James Stuart, Sheriff Anoka County; Doctor John Loes, Anoka County Jail Doctor

Defendants - Appellees

Appeal from United States District Court
for the District of Minnesota - Minneapolis

Submitted: October 21, 2015

Filed: November 9, 2015

[Unpublished]

Before SMITH, COLLOTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

Minnesota inmate Norlyn Stanley Nelson appeals following the district court's¹ adverse grant of summary judgment in his 42 U.S.C. § 1983 action in which he brought claims of deliberate indifference to his serious medical needs. He also challenges the district court's denial of his request for appointed counsel.

Upon careful de novo review, see Alberson v. Norris, 458 F.3d 762, 765 (8th Cir. 2006) (standard of review), we conclude that summary judgment was properly granted (1) as to defendant Dr. Loes, because the un rebutted evidence shows that he provided consistent and constitutionally adequate treatment for Nelson's migraine headaches and deteriorating hip, see Christian v. Wagner, 623 F.3d 608, 613 (8th Cir. 2010) (pretrial detainee alleging denial of medical care must establish both that medical need was objectively serious, and that defendant actually knew of, but disregarded it); Meuir v. Green Cty. Jail Emps., 487 F.3d 1115, 1118-19 (8th Cir. 2007) (mere difference of opinion on medical treatment or matters requiring expert medical judgment not constitutional violation); and (2) as to defendant Stuart, regardless whether he was sued in both his individual and official capacities, because Nelson failed to create a triable issue on whether any county employee was deliberately indifferent to his medical needs, see Gibson v. Weber, 433 F.3d 642, 647 (8th Cir. 2006) (appellant could not show summary judgment was improper for prison administrators since he had not shown his care was constitutionally deficient); Russell v. Hennepin Cnty., 420 F.3d 841, 846 (8th Cir. 2005) (before municipality can be held liable, there must be unconstitutional conduct by municipal employee). Finally, the district court did not abuse its discretion in denying the request for appointed counsel. See Phillips v. Jasper Cty. Jail, 437 F.3d 791, 794-95 (8th Cir. 2006).

Accordingly, we affirm. See 8th Cir. R. 47B.

¹The Honorable David S. Doty, United States District Judge for the District of Minnesota, adopting the report and recommendations of the Honorable Tony N. Leung, United States Magistrate Judge for the District of Minnesota.