[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 19-12804
Non-Argument Calendar

D.C. Docket No. 8:19-cv-00596-JSM-SPF

PATRICIA HANNAH,
as plenary legal guardian of Darryl Vaughn Hanna, Jr.,
an individual,

Plaintiff - Appellee,

versus

ARMOR CORRECTIONAL HEALTH SERVICES INC.
a Foreign for-profit Corporation, et al.,

Defendants,

RONALD LAUGHLIN,

Defendant - Appellant.

Appeal from the United States District Court
for the Middle District of Florida

(November 26, 2019)

Before WILSON, JORDAN, and NEWSOM, Circuit Judges.

PER CURIAM:

This is an interlocutory appeal from the district court's denial of qualified immunity on a motion to dismiss. Appellee Patricia Hannah alleges that Darryl Vaughn Hanna, Jr. was a pretrial detainee at the Manatee County Jail. While Hanna, Jr. was there, he suffered a series of syncopal episodes that have since left him in a vegetative state. Hannah—as Hanna, Jr.'s legal guardian—has sued several prison and medical officials for constitutional violations related to those episodes.

One of the prison officials is appellant Ronald Laughlin, a prison guard at the jail. Hannah alleges that Laughlin was deliberately indifferent to Hanna Jr.'s serious medical needs when he failed to obtain medical care for him despite knowing that Hanna, Jr. had blacked out and woken up disoriented. Laughlin, citing qualified immunity, moved to dismiss—a motion the district court denied.

This is his appeal. Taking the allegations in the complaint as true, we agree with the district court that Hannah has adequately alleged a violation of a constitutional right and that this right was clearly established when the violation occurred.

I.

"We review de novo a trial court's denial of a motion to dismiss a complaint on qualified immunity grounds." *Long v. Slaton*, 508 F.3d 576, 579 (11th Cir. 2007). "In reviewing a complaint, we accept all well-pleaded factual allegations as true and construe the facts in the light most favorable to the plaintiff." *Cottone v. Jenne*, 326 F.3d 1352, 1357 (11th Cir. 2003).

Qualified immunity is an affirmative defense to a 42 U.S.C. § 1983 action against a government official sued in his or her individual capacity. *See Wilson v. Strong*, 156 F.3d 1131, 1134 (11th Cir. 1998). It shields "government officials performing discretionary functions . . . from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). As the doctrine provides an immunity from suit, a defendant can raise a qualified-immunity defense on a motion to dismiss. *See Cottone*, 326 F.3d at 1357.

"To receive qualified immunity, a government official first must prove that he was acting within his discretionary authority." *Id.* "Once a defendant establishes that he was acting within his discretionary authority, the burden shifts to the plaintiff to show that the defendant is not entitled to qualified immunity." *Id.* at 1358. The qualified-immunity inquiry then comes in two parts, taken in any

order. *See Alcocer v. Mills*, 906 F.3d 944, 951 (11th Cir. 2018). The court must consider whether the "plaintiff's allegations, if true, establish a constitutional violation." *Cottone*, 326 F.3d at 1358. And the court must consider whether the right violated was clearly established. *See id.*

"In this circuit, the law can be 'clearly established' for qualified immunity purposes only by decisions of the U.S. Supreme Court, Eleventh Circuit Court of Appeals, or the highest court of the state where the case arose." *Jenkins by Hall v. Talladega City Bd. of Educ.*, 115 F.3d 821, 826 n.4 (11th Cir. 1997) (en banc). We have outlined three ways to show that a right is clearly established: (1) case law with indistinguishable facts clearly establishing the constitutional right; (2) a broad statement of principle within the Constitution, statute, or case law that clearly establishes a constitutional right; or (3) conduct so egregious that a constitutional right was clearly violated, even in the total absence of case law. *Lewis v. City of W. Palm Beach, Fla.*, 561 F.3d 1288, 1291–92 (11th Cir. 2009). The thrust of the clearly-established inquiry is that the law must be clear enough so that the officer would have "fair warning" that certain conduct was unlawful. *See Cottone*, 326 F.3d at 1359. Yet there need not be a case with materially identical facts for the law to be clearly established; the law must simply make it obvious that the officer's actions violated the plaintiff's rights in the particular circumstances. *See Youmans v. Gagnon*, 626 F.3d 557, 563 (11th Cir. 2010).

As for the merits of the constitutional violation alleged, the Fourteenth Amendment bars a prison official from being deliberately indifferent to a pretrial detainee's serious medical need. *See Jackson v. West*, 787 F.3d 1345, 1352 (11th Cir. 2015). This standard is the same as in the Eighth Amendment context. *See id.*

A deliberate-indifference claim has two components: an objectively serious medical need, and subjective deliberate indifference to that need. *See Brown v. Johnson*, 387 F.3d 1344, 1351 (11th Cir. 2004). An objectively serious medical need is "one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention." *Farrow v. West*, 320 F.3d 1235, 1243 (11th Cir. 2003). To establish subjective deliberate indifference to that need, a plaintiff must show "(1) subjective knowledge of a risk of serious harm; (2) disregard of that risk; and (3) by conduct that is more than mere negligence." *Brown*, 387 F.3d at 1351.

Given these principles, deliberate indifference can occur where a prison official knows of the prisoner's medical need, but delays care unnecessarily or does not provide care at all. *See Farrow*, 320 F.3d at 1246. Deliberate indifference can also occur where the care given is so cursory as to amount to no treatment at all. *See Ancata v. Prison Health Servs., Inc.*, 769 F.2d 700, 704 (11th Cir. 1985).

II.

The parties agree that Laughlin was acting in a discretionary capacity in his role as a prison guard at the jail. They disagree on whether Hannah has alleged the violation of a constitutional right and whether that right was clearly established.

Hannah alleges that a prison official notified Laughlin—the official's supervisor—that Hanna, Jr. had blacked out in a courtyard while playing basketball and that, when he came to, had complained of head pain and seemed disoriented. Laughlin then got word that the on-duty nurse believed that Hanna, Jr. might have a concussion, but had not referred Hanna, Jr. to a prison doctor. Laughlin also reviewed a surveillance tape the incident, in which he saw that Hanna, Jr. had blacked out, fallen to the ground, and laid there for nearly a minute. Despite this knowledge, Laughlin allowed Hanna, Jr. to return to his cell alone, without referring him prison doctors. Laughlin's inaction, says Hannah, played a role in Hanna, Jr.'s future episodes and vegetative state.

On these facts, a jury could find that Hanna, Jr.'s medical condition was so serious that he obviously needed medical attention. *Farrow*, 320 F.3d at 1243. A jury could also find that Laughlin was subjectively aware of the risk of harm flowing from Hanna, Jr.'s condition, given that he had blacked out for almost a minute, hit the ground, and had the symptoms of a concussion. *See id.* And the jury could find that Laughlin disregarded this risk by more than mere negligence

when he failed to refer Hanna, Jr. for further medical evaluation. *See id.*; *Ancata*, 769 F.2d at 704. Hannah has thus stated a violation of a constitutional right.

This right was also clearly established when the alleged violation occurred. Our court has made clear that a prison official acts with deliberate indifference when the official fails to provide adequate medical treatment for a prisoner that has fallen unconscious. *See, e.g.*, *Bozeman v. Orum*, 422 F.3d 1265, 1273 (11th Cir. 2005), *abrogated on other grounds by Kingsley v. Hendrickson*, 135 S. Ct. 2466 (2015). And it is clearly established that "an official acts with deliberate indifference when he intentionally delays providing an inmate with access to medical treatment, knowing that the inmate has a life-threatening condition or an urgent medical condition that would be exacerbated by delay." *Lancaster v. Monroe Cty., Ala.*, 116 F.3d 1419, 1425 (11th Cir. 1997).

Again, Hannah alleges that Laughlin knew that Hanna, Jr. had blacked out, laid on the ground for nearly a minute, and had woken up disorientated. Laughlin also knew that the prison nurse had thought that Hanna, Jr. might have a head injury, yet had not referred Hanna, Jr. to a doctor. Any reasonable officer would have known that those are symptoms of a potentially urgent medical condition. Even so, Laughlin allegedly did not refer Hanna, Jr. to prison doctors and instead allowed him to return to his cell alone. If true, that conduct violated Hanna, Jr.'s constitutional rights to adequate medical care under the circumstances—rights that

were clearly established under our precedent. *Bozeman*, 422 F.3d at 1273; *Lancaster*, 116 F.3d at 1425.

The district court's order is **AFFIRMED.**