

043133/19344/MHW/REN/SLB

**UNITED STATES DISTRICT COURT**  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

JOHNNY JONES,

Plaintiff,

v.

WEXFORD HEALTH SOURCES, INC. and  
DR. MARSHALL JAMES,

Defendants.

Case Number 17 cv 8218

Honorable Mary M. Rowland

**MOTION FOR SUMMARY JUDGMENT**

Defendants, WEXFORD HEALTH SOURCES, INC (“Wexford”). and DR. MARSHALL JAMES (“Dr. James”) (collectively “Wexford Defendants”), by and through their attorneys, Matthew H. Weller, Ronald E. Neroda and Sandra L. Byrd of CASSIDAY SCHADE LLP, and for their Federal Rule of Civil Procedure 56 Motion for Summary Judgment, hereby states as follows:

1. Wexford Defendants incorporate their Local Rule 56.1 Statement of Undisputed Material Facts (“SOF”) and Memorandum of Law in Support of their Federal Rule of Civil Procedure 56 Motion for Summary Judgment (“Memorandum of Law”) as though fully set forth herein. Wexford Defendants’ SOF and Memorandum of Law demonstrate that each Wexford Defendant is entitled to summary judgment and should be dismissed with prejudice from this suit.

2. On November 13, 2017, Plaintiff, JOHNNY JONES, filed his Complaint in which he alleges Dr. James provided inadequate treatment for his alleged medical issues while Plaintiff was incarcerated at Sheridan Correctional Center (“Sheridan”). Plaintiff alleges that Dr. James was deliberately indifferent to Plaintiff’s serious medical needs in violation of the Eighth

Amendment to the United States Constitution and that Dr. James committed the Illinois state tort of medical malpractice. Further, Plaintiff alleges that Dr. James' employer, Wexford, is vicariously liable for Dr. James' alleged medical malpractice. [Dkt. #1].

3. Summary judgment is proper if "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). After a motion for summary judgment is made, the adverse party "must set forth specific facts showing that there is a genuine issue for trial." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986). A party can only successfully oppose summary judgment "when it presents definite, competent evidence to rebut the motion." *Essex v. United Parcel Serv. Inc.*, 111 F.3d 1304, 1308 (7th Cir. 1997).

4. Plaintiff has failed to present any evidence to support a claim of deliberate indifference against Dr. James. It is undisputed that correctional officials are prohibited from acting with deliberate indifference to an inmate's serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976). In order to prove a claim of deliberate indifference against a correctional official, however, the inmate must prove that he had an objectively serious medical condition and that the defendant was subjectively aware of and consciously disregarded the inmate's objectively serious medical need. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994).

5. An objectively serious medical condition is "one that a physician has diagnosed as needing treatment or one that is so obvious that even a layperson would easily recognize the necessity for a doctor's attention." *Knight v. Wiseman*, 590 F.3d 458, 463 (7th Cir. 2006) (internal citations omitted).

6. With respect to the subjective component of the deliberate indifference test, the inmate must establish that the defendant actually knew that the inmate needed treatment for an

objectively serious medical need or risk but nevertheless purposely and deliberately withheld the treatment. *Sellers v. Henman*, 41 F.3d 1100, 1103 (7th Cir. 1994).

7. Deliberate indifference constitutes unnecessary and wanton infliction of pain, which is “repugnant to the conscience of mankind,” or which is “so grossly incompetent, inadequate, or excessive as to shock the conscience or be intolerable to fundamental fairness.” *Estelle* at 106-07. Negligence, gross negligence, or even tortuous recklessness is not enough. *Id.* Furthermore, “a prisoner’s Eighth Amendment right is violated only when the treatment he receives is ‘blatantly inappropriate.’ A prisoner with a serious medical need receives blatantly inappropriate medical treatment if he is ‘literally ignored,’ or if the treatment he does receive is such that ‘no minimally competent professional would have so responded under those circumstances.’” *Johnson v. Obaisi*, 2020 U.S. Dist. LEXIS 13661 (N.D. Ill. Jan. 28, 2020) (emphasis added) (internal citations omitted).

8. Plaintiff has failed to produce any evidence sufficient to show that Dr. James was deliberately indifferent to his serious medical need. The medical evidence produced in this case establishes that Plaintiff received prompt, continuous and adequate medical treatment that complies with community medical standards. Plaintiff has not produced any evidence that demonstrates his ability to prove to a jury that Dr. James medical treatment was blatantly inappropriate, would shock the conscience or be intolerable to fundamental fairness.

9. Additionally, Plaintiff alleges that Dr. James committed the state law tort of medical malpractice. To establish medical malpractice, Plaintiff must prove that ““(1) the standard of care against which the medical professional’s conduct must be measured; (2) the defendant’s negligent failure to comply with that standard; and (3) that the defendant’s negligence proximately caused the injuries for which the plaintiff seeks redress.”” *Wiedenbeck v.*

*Searle*, 385 Ill.App.3d 289, 292 (1st Dist. 2008) (quoting *Hussung v. Patel*, 369 Ill.App.3d 924, 931 (2007)).

10. Plaintiff has failed to prove each of the three elements of medical negligence against Dr. James. This necessarily means that Plaintiff cannot prove that Wexford is vicariously liable for Dr. James' conduct.

11. Finally, Plaintiff has failed to put forth any evidence that would allow him to recover punitive damages. Plaintiff is barred from seeking punitive damages for his state law claims. 735 ILCS 5/2-1115 and punitive damages may be awarded under §1983 only "when the defendant's conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others." *Schaub v. VonWold*, 638 F.3d 905, 922-23 (8th Cir. 2011).

12. The uncontroverted evidentiary record reveals that the medical treatment Plaintiff received from Dr. James did not rise to the level of deliberate indifference nor did it constitute medical malpractice. As such, there are no genuine issues of material fact and each of the Wexford Defendants is entitled to summary judgment as a matter of law.

WHEREFORE, Defendants WEXFORD HEALTH SOURCES, INC. and DR. MARSHALL JAMES, respectfully request that this Court enter an Order granting their Motion for Summary Judgment, dismissing this suit with prejudice, and granting any other relief this Court deems just and appropriate.

Respectfully submitted,

WEXFORD HEALTH SOURCES, INC. and DR.  
MARSHALL JAMES

By: /s/ Sandra L. Byrd

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 6, 2020 I electronically filed the foregoing document with the clerk of the court for Northern District of Illinois, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of E-Filing” to the attorneys of record in this case.

/s/ Sandra L. Byrd

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