

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LADELL A. EVANS,

Plaintiff,

v.

NOEL HILL,

Defendant.

OPINION AND ORDER

22-cv-63-wmc

Pro se plaintiff Ladell Evans, who is incarcerated at Columbia Correctional Institution (“Columbia”), has been granted leave to proceed against Columbia Correctional Officer Noel Hill for allegedly failing to protect Evans from graphically alleged, self-harm in violation of the Eighth Amendment. (Dkt. #6.) Now before the court is defendant’s motion for summary judgment. (Dkt. #22.)¹ Although there is no dispute that Hill witnessed Evans making superficial bite marks on his arm, the actual self-harm that Evans was engaged in and subsequently continued after being confronted by Officer Hill – biting himself in a manner that required minimal treatment – does not support a constitutional claim. Therefore, the court must grant Hill’s motion, entering judgment in his favor and closing this case.

UNDISPUTED FACTS²

On July 3, 2021, Evans was being held in the Restrictive Housing Unit (“RHU”) at

¹ Evans has also filed a motion asking for default judgment against defendant solely because he did not file a reply in support of his motion for summary judgment. (Dkt. #35.) However, defendant not only filed a reply, he was not required to do so. Therefore, the court will deny that motion.

² Unless otherwise indicated, the following facts are material and undisputed. The court has drawn these facts from the parties’ proposed findings of fact and responses, as well as the underlying,

Columbia. Evans started banging his head into his cell door and biting his arm. At about 10:30 p.m. that evening, defendant Hill walked by Evans' cell, but the evidence of record establishes that the scene Hill confronted was far tamer than Evans alleged in his complaint. Rather, when Hill saw Evans, Evans told Hill he wanted wound care, and according to Evans, Hill responded that he was allowed to let Evans harm himself, which prompted him to start biting his arm and cover his cell window; Evans does not attest that he was bleeding, much less that Hill saw any blood in his cell from his forehead or arm.³

Moreover, shortly after interacting with Officer Hill, Evans covered his cell window and was no longer communicating with staff. Non-defendant Anthony Bonfiglio, a captain, came to the RHU to conduct supervisory rounds just twenty minutes later, and as he approached Evans' cell at about 10:50 p.m., he did not see any blood. At that time, Evans removed the clothing that was covering the cell window and told Bonfiglio that during the previous shift, he had engaged in self-harm and had requested wound care. In response, Bonfiglio arranged to have Evans examined by Health Service Unit ("HSU") staff.

While HSU staff examined him, and Evans claims that he had bit his left forearm and cut his right shin with a fingernail, a nurse noted only that Evans had an approximate "one-centimeter abrasion" on his left forearm, which Evans says was a bite mark, and "an approximate 1.5-centimeter open area on his right shin." Captain Bonfiglio also observed

record evidence as appropriate.

³ In contrast, Evans alleged in his complaint that when Officer Hill confronted Evans at his cell window, he was bleeding from bite marks and blood was smeared against the cell door window from banging his head. Evans further alleges that his biting "plugs" out of his own arm and caused severe injury.

“multiple puncture marks” that looked like bite marks on Evans’ left forearm, and a “half-inch laceration” on Evans’ shin. Evans further stated that he committed self-harm because he had not received adequate medical care for another self-harm wound to his forehead, but he denied any plan to self-harm in the future. The nurse applied antiseptic spray and ointment to Evans’ forearm and shin, then applied a dressing to his forearm and a large band-aid to his shin. She also cleaned his forehead, applied a band-aid and gave him an ice pack. Evans did not require further treatment that night or the next day.

OPINION

Summary judgment must be granted against a party who fails to make a showing sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). If the moving party meets this burden, then the non-moving party must provide evidence “on which the jury could reasonably find for the nonmoving party” to survive summary judgment. *Trade Fin. Partners, LLC v. AAR Corp.*, 573 F.3d 401, 406-07 (7th Cir. 2009), quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252 (1986). Defendant seeks summary judgment on the merits of Evans’ Eighth Amendment claim against Hill.

The Eighth Amendment prohibits prison officials from responding with “deliberate indifference” to a “substantial risk of serious harm” to his health or safety. *Id.* at 836. Significant self-harm constitutes “serious harm.” *See Minix v. Canarecci*, 597 F.3d 824, 831 (7th Cir. 2010). Thus, deliberate indifference to a risk of self-harm is present when an

official is subjectively “aware of the significant likelihood that an inmate may imminently” harm himself, yet “fail[s] to take reasonable steps to prevent the inmate from performing the act.” *Pittman ex rel. Hamilton v. County of Madison, Ill.*, 746 F.3d 766, 775-76 (7th Cir. 2014) (citations omitted); *see also Rice ex rel. Rice v. Correctional Medical Services*, 675 F.3d 650, 665 (7th Cir. 2012) (“[P]rison officials have an obligation to intervene when they know a prisoner suffers from self-destructive tendencies.”).

Defendant seeks summary judgment because the evidence of record does not show that Evans’ self-harming biting presented a sufficiently serious risk of harm to implicate his Eighth Amendment rights. For purpose of summary judgment, the court accepts Evans’ assertion that Hill observed him bite himself. However, contrary to his allegations, the record evidence does not support a reasonable inference that Hill observed Evans engaging in any behavior presenting a serious risk of harm.

To start, although at the pleading stage Evans alleged that his blood had covered his cell window, Evans has effectively withdrawn that allegation, having failed to dispute defendant’s evidence to the contrary. So, Hill did not, as Evans previously alleged, see Evans’ cell walls or even window covered in blood. Moreover, although he did observe Evans biting himself and Evans claims to have reported banging his head earlier, Evans was not bleeding and the biting, alone, was simply not a sufficiently serious form of self-harm here to sustain an Eighth Amendment claim. The evidence does not support a finding that Evans’ self-inflicted bite wounds were causing any bleeding when Hill observed him nor when HSU staff examined him later. To the contrary, there is no dispute that his bite marks required very minor medical treatment: Evans received antiseptic spray, band aids

and ointments, and he did not request or require further medical treatment that night or the next morning. In addition, when Evans complained to Captain Bonfiglio about needing wound care, he was not asking for care for his bite wounds, but rather for a forehead injury.

As disturbing as Officer Hill's attributed statement that he did not have to report or do anything about Evans' self-harm, the facts are like those the Seventh Circuit addressed in *Lord v. Beahm*, 952 F.3d 902, 905 (7th Cir. 2020), in which officers failed to protect a prisoner from self-harm, but the prisoner harmed himself with mere scratches. In fairness, the *Lord* court emphasized that the plaintiff was not seeking damages for his injuries, and instead just for defendants' failure to prevent the self-harm. Although that case is not on all fours with Evans' circumstances because Evans seeks damages for his injuries, the court explicitly stated that minor cuts that are "quickly and easily treated with a gauze and bandage" do not demonstrate that the plaintiff "experienced any cognizable harm." *Id.* at 905. That principle applies here. Evans neither disputes that his actual, physical injuries were extremely minor nor that defendant Hill did *not* observe him engaging in any more serious form of self-harm than the biting his forearm. From this alone, there is simply not enough evidence to support Evans' claim that Hill was obligated to take steps to prevent any further self-harm. Accordingly, Hill is entitled to summary judgment on Evans' Eighth Amendment claim and the court will grant the motion for summary judgment and direct entry of judgment in Hill's favor.

ORDER

IT IS ORDERED that:

1. Defendant's motion for summary judgment (dkt. #22) is GRANTED.
2. Plaintiff LaDell Evans' motion for permission to file for default judgment (dkt. #35) is DENIED.
3. The clerk of court is directed to enter judgment in defendants' favor and close this case.

Entered this 5th day of September, 2023.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge