

United States Court of Appeals
For the Eighth Circuit

No. 16-1910

Daniel J. Scott

Plaintiff - Appellant

v.

Mary Benson, ARNP

Defendant - Appellee

Iowa Civil Commitment Unit for Sex Offenders; Dr. Jason Smith, Director

Defendants

Appeal from United States District Court
for the Northern District of Iowa - Sioux City

Submitted: January 5, 2017

Filed: January 10, 2017

[Unpublished]

SHEPHERD, ARNOLD, and KELLY, Circuit Judges.

PER CURIAM.

Daniel J. Scott appeals the district court's¹ adverse grant of judgment following a bench trial in his 42 U.S.C. § 1983 action. We find no error in the district court's conclusion that the care provided to Mr. Scott by defendant Mary Benson, ARNP, before September 6, 2010, did not rise to the level of deliberate indifference. See Smith v. AS Am., Inc. 829 F.3d 616, 622 (8th Cir. 2016) (if evidence could lead to two plausible conclusions, district court's choice between them cannot be clearly erroneous); Schaub v. VonWald, 638 F.3d 905, 915 (8th Cir. 2011) (deliberate indifference must be measured by defendant's knowledge at time in question, not by perfect vision of hindsight); Senty-Haugen v. Goodno, 462 F.3d 876, 889-90 (8th Cir. 2006) (deliberate indifference is higher standard than gross negligence). Accordingly, the judgment of the district court is affirmed, see 8th Cir. R. 47B; and the motion to withdraw filed by Mr. Scott's appointed counsel is denied as moot.

¹The Honorable Mark W. Bennett, United States District Judge for the Northern District of Iowa.