E-FILED
Tuesday, 16 August, 2016 12:05:25 PM
Clerk, U.S. District Court, ILCD

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

SPENCER HARRIS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	15-CV-2067
	)	
ERIC SENESAC, et al.,	)	
	)	
Defendants.	)	

ORDER

SARA DARROW, U.S. District Judge.

Plaintiff, proceeding pro se from his incarceration in the Metropolitan Correctional Center, pursues claims arising from his detention in the Jerome Combs Detention Center (JCDC) from March 2014 to January 2016. In particular, two claims were identified in the merit review order: (1) deliberate indifference to Plaintiff's serious medical needs; and (2) inhumane conditions of confinement. (6/17/2015 Order.)

Now before the Court is Defendants' motion for summary judgment (33) and Plaintiff's responses (37, 49). For the reasons explained below, the motion will be granted in part and denied in part, with leave to renew.

Summary Judgment Standard

"The court shall grant summary judgment if the movant shows that 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). A movant may demonstrate the absence of a material dispute through specific cites to admissible evidence, or by showing that the nonmovant "cannot produce admissible evidence to support the [material] fact." Fed. R. Civ. P. 56(c)(B). If the movant clears this hurdle, the nonmovant may not simply rest on his or her allegations in the complaint, but instead must point to admissible evidence in the record to show that a genuine dispute exists. Id.; Harvey v. Town of Merrillville, 649 F.3d 526, 529 (7th Cir. 2011). "In a § 1983 case, the plaintiff bears the burden of proof on the constitutional deprivation that underlies the claim, and thus must come forward with sufficient evidence to create genuine issues of material fact to avoid summary judgment." McAllister v. Price, 615 F.3d 877, 881 (7th Cir. 2010).

At the summary judgment stage, evidence is viewed in the light most favorable to the nonmovant, with material factual disputes resolved in the nonmovant's favor. Anderson v. Liberty

Lobby, Inc., 477 U.S. 242, 248 (1986). However, Plaintiff has not responded separately to each of Defendants' proposed undisputed facts as required by 7.1(D)(2) and has not shown good cause why he cannot do so. Accordingly, the proposed facts are deemed admitted to the extent they are supported by the defendants' cites to the record and not contradicted by admissible evidence identified by Plaintiff in his responses. CDIL-LR 7.1(D)(2)(b)(6).

Facts

Plaintiff's Medical Care at JCDC

Defendant Officer Senesac handled Plaintiff's initial medical screening when Plaintiff was booked into the Jerome Combs Detention Center on March 21, 2014. (Senesac Aff. 1). Plaintiff, 79 years old at the time, testified in his deposition that he felt tired at the time but otherwise all right. (Pl. Dep. 28:17-19; 31:9-10). The intake sheet reflected that Plaintiff had hypertension and diabetes and was taking medications, including Metformin, a diabetes medication. (3/21/14 intake sheet attached to Senesac Aff.). Officer Senesac checked Plaintiff's blood sugar, which was recorded on the intake sheet as 471, a high level. Plaintiff testified that his

blood sugar was actually 500 and was incorrectly written as 471. (Pl. Dep. 31:7-8, 17-22).

Officer Senesac told Plaintiff that a nurse would follow up with him. Officer Senesac avers that he told an unidentified female nurse about Plaintiff's high glucose and understood from his conversation with that nurse that she would check on Plaintiff that day. (Senesac Aff. 10). Plaintiff counters that there is no record documenting that discussion, but Plaintiff offers no evidence to dispute that Officer Senesac had this conversation with the nurse.

A nurse did not check on Plaintiff later that day or in the next several days, nor was Plaintiff instructed to check his glucose levels, which inmates were given an opportunity to do four times per day. Defendants assert that Plaintiff's medications were approved and he received them every day (Defs.' Undisp. Fact 42), but their cite to Plaintiff's deposition does not state the date that Plaintiff actually began receiving his medications. (Pl. Dep. 93-94). Plaintiff testified that he did not check his glucose and that he did not ask to see a doctor or a nurse during this time because he was relying on Officer Senesac's representation that a nurse would come to see Plaintiff. (Pl. Dep. 32:8-10). Plaintiff testified that he was not

feeling badly during this time but that he did feel cold and spent most of his time sleeping. (Pl. Dep. 48:16; 49:11-19).

On March 25, 2014, around 9:30 p.m., another inmate woke Plaintiff and asked Plaintiff if he wanted to check his blood glucose level. Plaintiff did so and discovered that his blood glucose level was 500, according to Plaintiff. (Pl.'s Dep. 51:22). Defendant Physician Assistant Huffines was contacted and informed that Plaintiff's blood sugar was 589. (Huffines Aff. 6). Huffines directed that Plaintiff be taken to the hospital. (Huffines Aff. 7). Plaintiff was hospitalized that evening.

The hospital records show that Plaintiff was hospitalized for a blood sugar of more than 600. (St. Mary's Hosp., History and Physical, d/e 34-3, p. 1, attached to Defendant Huffines' affidavit). Though admitted for high blood sugar (hyperglycemia), Plaintiff then developed low blood sugar (hypoglycemia) while at the hospital and experienced a possible sinus tachycardia. He also became hypothermic. Eventually Plaintiff's medical condition was stabilized and he was released back to JCDC on March 28, 2014.

When Plaintiff was discharged from St. Mary's Hospital, his hemoglobin A1C level (A1C) was 14.2% on March 25 and 13.1% on

March 26. The A1C is "used to approximate a person's average daily blood sugar over [a] three-month span." (Huffines Aff. 10). A level of 14.2% or 13.1% "indicate an average blood sugar level of significantly greatly than 300 mg/dL." (Huffines Aff. 13). The A1C target level for someone with diabetes is between 7.0 and 8.0%, possibly higher for persons "with limited life expectancy, chronic kidney disease, or long-standing diabetes." (Huffines Aff. 17). In Huffines' opinion, Plaintiff's diabetes could be controlled at a target A1C of less than 8.0%.

Physician Assistant Huffines saw Plaintiff on April 9, 2014, at an initial "chronic care" appointment. Per policy, every three months inmates with chronic conditions like diabetes were to receive lab tests and have medical evaluations. Huffines prescribed a low salt and diabetic diet to Plaintiff, as well as *Ensure*, a "nutrition shake." Huffines also referred Plaintiff to an ophthalmologist and instructed Plaintiff to check his blood sugar twice daily, exercise 5 times per week and have his blood pressure checked weekly. (Huffines Aff. 9). Huffines avers that he adjusted Plaintiff's medications—his cite to the record indicates that he put a hold on three of Plaintiff's medications, Metoprolol, Lisinopril, and

Terazosin. The record does not reflect that Plaintiff was taking Metformin on April 9, 2014, but the record from July 18, 2014, indicates that Plaintiff was taking Metformin. (7/18/14 medical record, d/e 34-3, p. 45).

Plaintiff contends that the "diabetic diet" he received was not for diabetics because the meals typically consisted of the same meal as the regular tray (which Plaintiff maintains was high in carbohydrates) except for substituting canned fruit for the dessert. The registered dietician responsible for approving the lunch and dinner meals provided to JCDC by a catering company avers that she reviews the diabetic menus for compliance with the American Diabetes Association nutritional guidelines. She gives some examples of the substitutions for diabetic diets, but does not exactly conclude that the diabetic menus are in compliance with ADA nutritional guidelines. Instead, she avers that the diabetic menu is "nutritionally appropriate" because it "meets caloric and protein requirements." (Terselic Aff. 14). According to Plaintiff, items like white bread, white potatoes, and french fries were served on the diabetic tray, which Plaintiff maintains raised his blood sugar. Plaintiff also maintains that the *Ensure* was contraindicated for

Plaintiff's diabetes because it contained too much sugar and that the cereal served in the morning was too sugary. However, Plaintiff admitted in his deposition that he bought and ate food from the commissary such as cookies and candy, though he gave about half of that away to inmates who had no money. (Pl. Dep. 151-153)("Yes, Milky Ways, basically, is my breakfast. That way I don't have to put my [dental] plate in.").

By April 16, 2014, Plaintiff's A1C had fallen to 11.3% and had fallen to 10.2% by July 2014. On July 2, 2014, Huffines saw Plaintiff for complaints of decreased urinary flow. Huffines prescribed Flomax, and Plaintiff was referred to a urologist, who scheduled Plaintiff for a cystoscopy in August. (Huffines Aff. 14; Pl. Dep. 96-98). The procedure could not take place as scheduled because Plaintiff ate the morning of the procedure. (Huffines Aff. 18-19). The cystoscopy was rescheduled and performed on September 11, 2014. (Huffines Aff. 23).

On July 18, 2014, Huffines saw Plaintiff for Plaintiff's chronic care appointment. Huffines continued the Metformin and prescribed 10 units of insulin at bedtime. On August 14, 2014, Huffines saw Plaintiff for complaints of shortness of breath and

light-headedness. (Huffines Aff. 20). Huffines referred Plaintiff to a cardiologist. The cardiologist ordered a stress echocardiogram, which was done and showed normal results. (Huffines Aff. 22, 24).

Plaintiff was moved from "B pod" to the medical unit ("H pod") on August 4, 2014, and remained there until his transfer to the Metropolitan Correctional Center. In the late afternoon of August 8, 2014, Plaintiff experienced low blood sugar (63 mg/dL), measured at 4:00 p.m. He blames this on Defendant Officer Henshaw, because, according to Plaintiff, Plaintiff had begun feeling weak and dizzy sometime between 8:30 and 10:00 that morning, and Plaintiff had asked Officer Henshaw for a blood glucose check at that time. Henshaw purportedly "said he was busy and he would do it a little later" but did not. (Pl. Dep. 67:2-4). Plaintiff's blood sugar had been 109 at the 5:30 a.m. check and had dropped to 63 by the 4:00 p.m. check. Plaintiff had something to eat after he realized his blood sugar was 63, and his blood sugar rose to 274 by the 8:00 p.m. check. (Pl. Dep. 69:12-14). Plaintiff had not eaten breakfast that day and does not think he ate lunch either. (Pl. Dep. 65:3-4; 68:1-5).

Defendant Huffines continued to see Plaintiff every three months in the chronic care clinic, adjusting Plaintiff's diabetes medicines as needed and going over lab results with Plaintiff. Plaintiff's A1C level continued to drop. (Huffines Aff. 26, 30-31, 37, 45). By the last chronic care visit before Plaintiff's transfer out of JCDC, Plaintiff's A1C had been near 8.0% for eleven months. (Huffines Aff. 49).

Around January 13, 2015, Plaintiff fainted while sitting in a chair. Huffines examined Plaintiff the next day. Plaintiff denied current symptoms at that visit and the examination was normal. (Huffines Aff. 28).

Dr. Long, the Medical Director at JCDC, first saw Plaintiff on March 18, 2015, for complaints of intermittent shortness of breath and chest pain. (Long Aff. 7). Dr. Long ordered a chest x-ray, lab test, and a pulmonary function test. (Long Aff. 10). The results of the pulmonary testing were consistent with chronic obstructive pulmonary disease. (Long Aff. 16). Physician Assistant Huffines saw Plaintiff to follow up on April 3, 2015. Plaintiff reported feeling better, and Huffines continued with the same medications. (Huffines Aff. 35).

In June 2015, Huffines saw Plaintiff for complaints of pain in his hands and feet and trouble with his urinary stream. (Huffines Aff. 38). Huffines prescribed medication for nerve pain and referred Plaintiff to a urologist, who ordered an additional cystoscope. (Huffines Aff. 39). In preparation for the procedure, Plaintiff's EKG showed that Plaintiff was experiencing supraventricular tachycardia. An ablation of Plaintiff's heart was performed at St. Mary's hospital. (Huffines Aff. 41, 43).

Plaintiff was transferred from JCDC to the Metropolitan Correctional Center in January 2016.

Conditions of Confinement at JCDC

Plaintiff was housed in the "B Dorm" for about six months, from March 21 to August 4, 2014. Forty-eight inmates were housed in this minimum security dorm, which had 24 bunk beds, a day room (where the bunk beds are located), frosted skylights, a small recreation room, showers, toilets, sinks, and a microwave. (Kolitwenzew Aff. 39, 40). The recreation room is restricted to six inmates at a time. (Kolitwenzew Aff. 45). Plaintiff was able to exercise by "[w]alk[ing] around the big room, the dormitory. I did that 15 times, take a break, another 15, you know, as many as I

can, you know." (Pl. Dep. 158:2-4). There is no opportunity for inmates to go outside. (Kolitwenzew Aff. 37). There is constant lighting for security reasons, except that the lights are dimmed "half-way" at night. (Pl. Dep. 160:8). No one would have stopped Plaintiff from covering his eyes with something when Plaintiff was trying to sleep. (Pl. Dep. 160:11-14).

Plaintiff was moved to "H Pod," the medical unit, on August 4, 2014, where he remained until he was transferred to Metropolitan Correctional Center around January 25, 2016. H Pod is a two-tier unit with eight single bunk cells, a day room with a table and four stools (available at least 12 hours per day), and a skylight. (Kolitwenzew Aff. 48, 49; Pl. Dep. 163). Plaintiff was able to exercise in his cell and to go up and down the stairs for exercise. (Pl. Dep. 163). At night, the cells are illuminated with a seven watt light. (Kolitwenzew Aff. 54).

Plaintiff testified that he was cold, particularly during his first several days at JCDC. However, he does not dispute that the temperature in JCDC is controlled by a computer and monitored by staff two to four times per day. He does not dispute that the "target temperature" in the winter is 74 degrees Fahrenheit, and the

"discharge air temperature is kept at all times between sixty-eight (68) and seventy-two (72) degrees Fahrenheit." (Kolitwenzew Aff. 7). Plaintiff testified in his deposition that on intake he received a t-shirt, a pair of socks, and perhaps two pairs of underwear, and he does not dispute that each inmate receives a mattress, sandals, a bed sheet, a uniform consisting of pants and shirt, and a towel on admission. (Kolitwenzew Aff. 6). Plaintiff did testify in his deposition that he was not given a blanket (Pl. Dep. 47:7-15) as he should have been on admission. Plaintiff bought long johns from the commissary at some point, and he received extra socks and underwear after filing a grievance. (Pl. Dep. 40:8-12, 39:14-20).

Plaintiff's complaints about sanitation seem to be that other inmates reported mold in the bathroom, that the "spraying" for "MRSA" makes the floors sticky, and that the eating, showering, and toileting areas were all in one large space, instead of separated. (Pl. Dep. 169-171). Inmates are given cleaning supplies to clean the units.

Analysis

I. Medical Care

Plaintiff was a pretrial detainee during his incarceration in JCDC, which means that the Fourteenth Amendment governs his claims rather than the Eight Amendment. In the context of medical care, however, the legal standard is identical whether the right springs from the Fourteenth or Eighth Amendment. Phillips v. Sheriff of Cook County, --- F.3d ---, 2016 WL 3615761 n. 31 (7th Cir. 2016); Estate of Miller v. Tobaisz, 680 F.3d 984, 989 (7th Cir. 2012)("The same standard applies for pretrial detainees and incarcerated individuals, though pursuant to the Fourteenth Amendment rather than the Eighth Amendment."). Plaintiff must have admissible evidence from which a jury could reasonably find that Defendants were deliberately indifferent to his serious medical needs. Dixon v. Cook County, 819 F.3d 343, 350 (7th Cir. 2016).[1]

Defendants argue that Plaintiff's high blood glucose on intake did not present a serious medical need, but they offer no evidence to support that position. Officer Senesac thought the level serious

[1] Dixon acknowledged that the U.S. Supreme Court in Kingsley v. Hendrickson, 135 S.Ct. 2466 (2015) held that excessive force claims by pretrial detainees and inmates have different legal standards.

enough to inform the nurse, and the nurse purportedly thought the level high enough that Plaintiff should be seen that afternoon. Plaintiff's diabetes and other medical conditions support a reasonable inference that he suffered from serious, chronic medical conditions needing medical treatment.

The question is whether any of Defendants were deliberately indifferent. Deliberate indifference is more than negligence—deliberate indifference is the conscious disregard of a known and substantial risk of serious harm to an inmate's health. For medical professionals treating inmates, an inference of deliberate indifference arises "'if the decision by the professional is such a substantial departure from accepted professional judgment, practice, or standards, as to demonstrate that the person responsible actually did not base the decision on such a judgment.'" Roe v. Elyea, 631 F.3d 843, 857 (7th Cir. 2011)(*quoting* Sain v. Wood, 512 F.3d 886, 894-95 (7th Cir. 2009). "A medical professional is entitled to deference in treatment decisions unless no minimally competent professional would have so responded under those circumstances." Sain, 512 F.3d at 894-95.

A. Defendants were not deliberately indifferent to Plaintiff's medical needs from Plaintiff's hospitalization on March 25, 2014, to his transfer out of JDCD in January 2016.

No rational juror could find that any of the Defendants were deliberately indifferent to Plaintiff's serious medical needs after Plaintiff's hospitalization on March 25, 2014. Defendant Huffines immediately sent Plaintiff to the hospital upon learning of Plaintiff's high blood sugar on March 25, 2016, and Plaintiff received extensive and regular medical treatment and testing from Huffines and Dr. Long after Plaintiff's return from the hospital.[2] Plaintiff's A1C level, the measure of how well Plaintiff's diabetes was controlled, improved significantly under the care of Huffines, to close to target levels. The high A1C levels measured at the hospital indicate that Plaintiff was not controlling his diabetes before his incarceration—his control of his diabetes was better in jail than out.

Plaintiff asserts that his medical care after his hospitalization fell short because: (1) Plaintiff was prescribed Ensure; (2) Plaintiff was prescribed a diabetic diet but his meals were not actually for

[2] Plaintiff seems in his response to ask to voluntarily dismiss Defendant Huffines. (Pl. Resp., d/e 37, p. 11)("Plaintiff wish to remove Brent Huffines, Physician Assistant at "JCDC" from the 1983 complaint, ...") Plaintiff admitted in his deposition that, "See, Brett Huffines, I do not have any problems with him, he's did his job, as far as I know, and he might have saved my life." (Pl. Dep. 188:8-10). However, since Plaintiff's intentions are unclear, the merits of his claims against Huffines are addressed.

diabetics; (3) Dr. Long did not see Plaintiff enough and initially thought Plaintiff had heart problems instead of chronic obstructive pulmonary disease; and (4) Officer Henshaw refused Plaintiff's request for a blood glucose test on August 18, 2014.

None of these contentions would support a jury verdict for Plaintiff. Plaintiff offers no evidence that prescribing Ensure was contraindicated for Plaintiff's diabetes, much less a substantial departure from accepted professional judgment. As to the diabetic diet, even assuming the diabetic meals provided were contraindicated for diabetes, Plaintiff points to no evidence that any of Defendants knew this or had control over the meals provided by the catering company. The diabetic diet was prescribed for Plaintiff, and Defendants reasonably relied on the catering company to provide the diabetic meals. As for Dr. Long, that Dr. Long did not see Plaintiff more than a few times much does not allow an inference of deliberate indifference. Plaintiff saw Physician Assistant Huffines frequently. All of Plaintiff's medical complaints were addressed.

Regarding Plaintiff's claim that Officer Henshaw refused Plaintiff's request for a blood glucose test, a jury could not find that

Henshaw consciously disregarded a substantial risk of serious harm to Plaintiff. Plaintiff's 5:30 a.m. blood glucose level was in the normal range and Plaintiff felt okay at 8:00 a.m. when the nurse passed out medicines. (Pl. Dep. 85:13-16). Plaintiff offers no evidence that he was exhibiting any symptoms during his interaction with Officer Henshaw that might have put Henshaw on notice that Plaintiff was having any urgent medical need. Plaintiff's blood sugar was low at the 4:00 p.m. check, but that problem was quickly remedied by Plaintiff eating. Plaintiff could have remedied his symptoms earlier by eating earlier, after he spoke with Officer Henshaw, regardless of whether he received a blood sugar check.

Plaintiff asserts in his response that Officer Henshaw refused the blood check because Plaintiff, one month before, had "words" with Henshaw about denying detainees a "'pat of butter'" and had filed a grievance about the pat of butter one month earlier. There is no retaliation claim before the Court. Even if there were, Plaintiff offers no evidence other than speculation that Officer Henshaw was motivated by retaliation, and the denial of one blood sugar check is not adverse enough to support a retaliation claim. Springer v. Durflinger, 518 F.3d 479, 484 (7th Cir.2008) (speculation

concerning retaliatory motives cannot create a genuine issue of material fact); Surita v. Hyde, 665 F.3d 860, 878 (7th Cir. 2011)(adverse action must be serious enough to deter a person of "ordinary firmness" from exercising First Amendment rights).

B. The record is not developed enough to determine whether Defendants Senesac, Long, or Huffines were deliberately indifferent to Plaintiff's serious medical needs from Plaintiff's intake on March 21, 2014, to March 25, 2015, when Plaintiff was sent to the hospital.

On Plaintiff's intake, Officer Senesac recorded that Plaintiff had diabetes and a blood glucose level of 471. Recognizing that the level was high, Senesac avers that he contacted an unidentified nurse, and based on that conversation Senesac understood that Plaintiff would be seen by the medical staff that day. What happened after that is not in the record. Whether Plaintiff's entire medical records from his stay at JCDC were filed with the summary judgment motion is unclear. The record does not show to whom Officer Senesac spoke and or what action was taken by the medical staff after that conversation. Were Huffines or Long informed or otherwise aware of Plaintiff's high blood sugar, diabetes, and existing prescriptions during these first few days? Did Plaintiff receive his diabetes medicine during this time? The Court cannot

tell whether Huffines or Long were involved in Plaintiff's medical care from Plaintiff's intake to his hospitalization on March 25th, and the Court is reticent to dismiss Officer Senesac without knowing the nurse to whom Senesac spoke and seeing an affidavit from that nurse and the complete medical records.

Summary judgment will, therefore, be denied to Senesac, Huffines, and Long, with leave to renew. Summary judgment will be granted to the other Defendants because they are laypersons who are not implicated in any way in Plaintiff's medical care during this time period.

II. Conditions of Confinement

To succeed on his conditions of confinement claim, Plaintiff must have enough evidence for a jury to find that the conditions he endured were "objectively serious" and Defendants "possess[ed] a sufficiently culpable state of mind." Smith v. Dart, 803 F.3d 304, 309 (7th Cir. 2015). An objectively serious condition is the "denial of a basic human need, . . . such as 'adequate food, clothing, shelter, and medical care.'" Id. (citations omitted). Whether a "sufficiently culpable state of mind" is deliberate indifference or something less

is not entirely clear, but the debate is immaterial here because a jury could not reasonably find that the deprivations were objectively serious. *Compare* Smith v. Dart, 803 F.3d 304 n. 2 (7th Cir. 2015)(stating in dicta that subjective state of mind is "'a purposeful, a knowing, or possibly a reckless state of mind'")(quoting Kingsley v. Hendrickson, 135 S.Ct. 2466, 2472 (2015)(pretrial detainee's excessive force claim governed by objective standard, but negligence not enough) *with* Sain v. Wood, 512 F.3d 886, 893-94 (7th Cir. 2008)(applying deliberate indifference standard to civil detainee's conditions of confinement claim).

Plaintiff testified in his deposition that he was cold during his first days at JCDC in March. He asserts in his response that Defendants admit to "hypothermic temperatures," (Pl. Resp. p. 13, d/e 37), but there is no evidence to support that assertion or to suggest that Plaintiff was subjected to the kind of extreme cold that might support a constitutional claim. *See* Antonelli v. Sheahan, 81 F.3d 1422, 1433 (7th Cir. 1996)(detainee stated claim where he alleged extremely cold indoor air temperature). Plaintiff does not dispute that he stayed in the dayroom with the other inmates, slept most of the time, and had a uniform along with underclothes and a

mattress. He does not dispute Defendants' evidence that the air coming out of the vents was between 68-72 degrees at all times. Plaintiff was able to purchase long johns at some point and received some additional socks and underwear in response to a grievance.

Plaintiff also testified in his deposition that there was no yard and no opportunity for "fresh air" unless he had to be transported outside JCDC. (Pl. Dep. 23). A lack of outdoor recreation is not a sufficiently serious deprivation if a detainee has indoor exercise opportunities. Smith v. Dart, 803 F.3d 304, 311 (7th Cir. 2015)("[W]e agree with the district court that Smith's allegation that he 'can[']t go outside [for] recreation' fails to state a sufficiently serious constitutional deprivation.")(brackets in original). Plaintiff admits he could and did exercise indoors.

Plaintiff also contends that the facility was illuminated 24 hours which disoriented him and made it difficult to sleep. (Pl. Resp. p. 10, d/e 37-1). However, he does not dispute that the lights were dimmed at night and that he could have put a piece of clothing over his eyes. Plaintiff claims that he was "disoriented" with no windows, calendars or clocks—"you don't know if it's day or

night"—but he admits that the facility had skylights, which would have shown whether it was day or night. (Pl. Resp. p. 10, d/e 37-1).

Plaintiff next asserts that the "medical unit is discriminated against," but the argument is unclear. Plaintiff appears to be arguing that inmates in the medical unit are expected to clean the unit themselves just like inmates in any other unit but are unable to do so because of their medical conditions. Plaintiff presents no evidence of unsanitary conditions in the medical unit, and he admitted in his deposition that he was able to exercise in the medical unit. He does not explain why he could exercise in the unit but not help clean the unit. He also challenges a rule on when the microwave can be used in the medical unit, but that is not a constitutional claim. Finally, Plaintiff challenges the lack of legal resources at JCDC, but that claim was dismissed for failure to state a claim, cite, and Plaintiff still fails to identify any nonfrivolous claim that he was prevented from pursuing. In re Maxy, 674 F.3d 658, 661 (7th Cir. 2012)("The right of access . . . is not 'an abstract freestanding right to a law library or legal assistance.'")

IT IS THEREFORE ORDERED:

1. Plaintiff's motion to supplement his response is granted (49). The Court's has considered Plaintiff's supplemental response.

2. Defendants' motion for summary judgment is granted in part and denied in part (d/e 33) as follows:

(a) Summary judgment is granted to Defendants on Plaintiff's claims for constitutionally inadequate medical care, **except** that summary judgment is denied to Defendants Senesac, Huffines, and Long regarding Plaintiff's claims of constitutionally inadequate medical care from Plaintiff's intake on March 21, 2014, until he was sent to the hospital on March 25, 2014.

(b) Summary judgment is granted to all Defendants on Plaintiff's claims for unconstitutional conditions of confinement.

3. By September 12, 2016, Defendants Senesac, Huffines, and Long are directed to file a supplemental summary judgment motion on the remaining claim against them.

4. The clerk is directed to terminate Defendants Henshaw, Bukowski, Downey, Kolitwenzew, and Schultz.

ENTER: 8/16/2016

FOR THE COURT:

_s/Sara Darrow_____
SARA DARROW
UNITED STATES DISTRICT JUDGE