

STATE OF MICHIGAN
COURT OF APPEALS

SHEILA STEWART, Personal Representative
of the Estate of JAMES STEWART, Deceased,

UNPUBLISHED
March 3, 1998

Plaintiff-Appellant/Cross-
Appellee,

v

No. 192787
Kent Circuit Court
LC No. 93-084390-NO

JAMES DOUGAN, Individually and Officially
as Kent County Sheriff,

Defendant-Appellee/Cross-
Appellant.

Before: Griffin, P.J., and Holbrook, Jr. and Neff, JJ.

PER CURIAM.

Plaintiff, personal representative of the estate of her deceased brother, James Stewart, appeals as of right the summary dismissal of her federal-law claims seeking damages from defendant as a result of Stewart's suicide while incarcerated in the Kent County jail. Defendant cross appeals, challenging several of the trial court's rulings. We affirm.

Plaintiff contends that the trial court failed to draw all inferences in her favor when determining that no question of material fact existed regarding whether defendant acted with deliberate indifference by allegedly failing to adopt reasonable policies to protect her brother. MCR 2.116(C)(10). This Court reviews a trial court's grant of summary disposition de novo to determine whether the moving party was entitled to judgment as a matter of law. *Miller v Farm Bureau Mutual Ins Co*, 218 Mich App 221, 233; 553 NW2d 371 (1996).

A prison official may be held liable under US Const, Am VIII's Cruel and Unusual Punishments Clause for acting with "deliberate indifference" to inmate health or safety, but only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it. *Farmer v Brennan*, 511 US 825, 837, 844; 114 S Ct 1970; 128 L Ed 2d 811 (1994); *Jackson v Detroit*, 449 Mich 420, 430; 537 NW2d 151 (1995). A pretrial detainee's due

process rights under the Fourteenth Amendment are protected to the same extent as the rights guaranteed convicted persons under the Eighth Amendment. *York v Detroit (After Remand)*, 438 Mich 744, 758; 475 NW2d 346 (1991).

“A plaintiff cannot establish a due process violation absent a showing of ‘deliberate indifference’; mere negligence does not amount to deliberate indifference.” *Jackson, supra* at 430. In determining whether an official acted with deliberate indifference to inmate health or safety, three principles may be derived from *Jackson*: (1) a “prison official cannot be found liable under the Eighth Amendment for denying an inmate humane conditions of confinement unless the official knows of, and disregards, a substantial risk to inmate health or safety”, (2) the “official must both be aware of facts from which the inference that a substantial risk of serious harm exists could be drawn, and he must also draw the inference”, and (3) it “goes without saying that if one acts reasonably one is not acting with deliberate indifference.” *Jackson, supra* at 430-431 and n 14.

Plaintiff’s case fails with respect to the third criterion.¹ “Prison officials who actually knew of a substantial risk to inmate health or safety may be found free from liability if they responded reasonably to the risk, even if the harm ultimately was not averted.” *Farmer, supra* at 844. Because no genuine issue of material fact exists regarding the reasonableness of jail officials’ response to Stewart’s suicidal tendencies, the trial court properly granted summary disposition to defendant pursuant to MCR 2.116(C)(10).

Because of our disposition of the issue raised by plaintiff on direct appeal, we need not address the issues raised on cross-appeal.

Affirmed.

/s/ Richard Allen Griffin
/s/ Donald E. Holbrook, Jr.
/s/ Janet T. Neff

¹ Accordingly, we need not address the trial court’s determinations regarding the first two criteria.