

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 21-3252

RALPH J. CARTER,
Appellant

v.

ADAM BAUMCRATZ, C.O.I. at SCI Forest; CODY WRIGHT, C.O.I. at SCI Forest;
CARL JOHNSON, C.O.I. at SCI Forest; ZACHERY LUTZ, C.O.I. at SCI Forest;
ZACHERY TERMINE, C.O.I. at SCI Forest; JORDAN DRAYER, C.O.I. at SCI Forest;
JEREMY COCHRAN, C.O.I. at SCI Forest; C.O. SMALLS, C.O.I. at SCI Forest; C.O.
BODDORF, C.O.I. at SCI Forest; and JANA JORDAN, Registered Nurse at SCI Forest

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Civil Action No. 1:18-cv-00096)
Magistrate Judge: Honorable Richard A. Lanzillo

Submitted Pursuant to Third Circuit LAR 34.1(a)
June 8, 2026
Before: KRAUSE, RESTREPO, and PORTER, *Circuit Judges*

(Opinion filed: June 26, 2026)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

PER CURIAM

Appellant Ralph J. Carter appeals pro se the District Court's order granting summary judgment in favor of the defendants. We will vacate and remand for further proceedings.

I.

Carter, a Pennsylvania state inmate, initiated this action against multiple prison officials pursuant to 42 U.S.C. § 1983, alleging Eighth Amendment claims of excessive force, failure to intervene, and deliberate indifference to serious medical needs, as well as related state law tort claims, following an altercation between Carter and a number of correctional officers. One morning in February 2017, Carter underwent a routine strip search before he was escorted to the yard for outside privileges. However, Carter was wearing two pairs of boxer shorts in violation of the policy permitting no more than one. When Defendant Baumcratz, the correctional officer conducting the search, only returned one pair of boxers to Carter at the end of his strip search, the two began to argue. They continued to argue as Defendant Baumcratz escorted Carter to the yard, and when they arrived, Defendant Baumcratz suddenly revoked Carter's yard privileges. As Defendant Baumcratz began forcibly escorting Carter back to his cell by pulling on the tether between his handcuffs, Carter requested to speak to a superior officer. Defendant Johnson, who was nearby escorting Carter's cell mate to the yard, then approached Carter and began shaking his can of oleoresin capsicum ("OC") spray, threatening to spray Carter if he did not return to his cell. Carter informed Defendant Johnson, in earshot of

Defendants Baddorf, Wright, Baumcratz, Lutz, Smalls, Drayer, and Termine, that he was not medically cleared for the use of OC spray because he has severe asthma.

On the way back to Carter's cell, more words were exchanged between Carter and Defendant Baumcratz. What happened next is disputed. Carter alleged that, after he insulted Defendant Baumcratz, Defendant Baumcratz and Defendant Wright slammed him into a wall, lifting him off his feet in the process. Defendants Baumcratz and Wright instead asserted that Carter attempted to break away from them, and they pushed him against the wall to regain control. The video evidence shows that Carter was then taken to the ground and restrained by Defendants Baumcratz, Wright, Johnson, and Lutz. Defendants alleged, and Carter denied, that Carter tried to bite Defendant Johnson, and in response Defendant Lutz sprayed Carter in the face with OC spray. Defendant Cochran then arrived on scene and ordered the other defendants to lift Carter to his feet and take him to medical triage. William Sutherland treated Carter, rinsing his eyes and wiping his face with a wet paper towel. Defendant Jordan subsequently arrived to medically evaluate Carter. She wiped the side of Carter's face with a dry paper towel but did not decontaminate any portion of his neck or head. She then informed the correctional officers that Carter was medically cleared. Carter was not given the opportunity to shower or change his clothes and was instead escorted back to his cell. Carter tried to rinse his face at the sink in his cell, only to discover the water had been cut off, forcing him to wash his face and hair using toilet water.

While in his cell, Carter's breathing worsened despite his use of his inhaler. Carter pressed the emergency call button to request further medical attention, but

Defendant Baumcratz threatened Carter and told him to stop pressing the button. Carter proceeded to suffer from an asthma attack and eventually blacked out at one point. He never received additional medical treatment. In addition to his untreated asthma attack, Carter alleged that he tore his labrum in his right shoulder during the altercation with Defendants and that he also suffered prolonged symptoms of depression and anxiety after the incident.

After the completion of discovery, Defendants moved for summary judgment, arguing that the use of force at issue was justified and that they were not deliberately indifferent to Carter's medical needs. Defendants further asserted immunity from Carter's state law tort allegations. In support of their motion, Defendants submitted, among other items, video recordings of the incident, medical records, and incident reports. The District Court granted Defendants' motion as to Carter's Eighth Amendment claims and declined to exercise supplemental jurisdiction over Carter's state law claims. Carter then moved for an extension of time to either file a notice of appeal or a motion to alter or amend the District Court's judgment. The District Court issued an order granting in part and denying in part Carter's motion, noting that October 26, 2021, was the immovable deadline to file a Federal Rule of Civil Procedure 59(e) motion and setting November 28, 2021, as Carter's new deadline to file a notice of appeal. Carter filed a notice of appeal and signed it on November 28, 2021, but the notice was not postmarked until December 2, 2021, and was docketed on December 6, 2021.¹

¹ We have jurisdiction pursuant to 28 U.S.C. § 1291. Carter's notice of appeal was untimely. See *Webb v. Dep't of Just.*, 117 F.4th 560, 565-67 (3d Cir. 2024) (discussing

II.

The District Court² improperly granted summary judgment in Defendants' favor on Carter's claims of excessive force and failure to intervene. "[D]efendants can . . . win on summary judgment if the district court concludes . . . that the officer's use of force was objectively reasonable[.]" *Kopec v. Tate*, 361 F.3d 772, 777 (3d Cir. 2004) (internal quotation marks omitted). "[T]he question whether the measure taken inflicted unnecessary and wanton pain and suffering ultimately turns on whether force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm." *Hudson v. McMillian*, 503 U.S. 1, 6 (1992) (internal quotation marks omitted). A court should consider: "(1) the need for the application of force; (2) the relationship between the need and the amount of force that was used; (3) the extent of injury inflicted; (4) the extent of the threat to the safety of staff and inmates, as reasonably perceived by the responsible officials on the basis of the facts known to them;

the requirements for application of the prison mailbox rule). However, we will construe his motion for an extension of time as a timely notice of appeal, as it sufficiently demonstrated Carter's intent to seek some form of further review of the District Court's order granting summary judgment. *See* 3d Cir. L.A.R. 3.4; *see also Rountree v. Balicki*, 640 F.3d 530, 536 (3d Cir. 2011) (construing a timely motion for extension of time to file a certificate of appealability as a notice of appeal pursuant to L.A.R. 3.4). We exercise plenary review over the District Court's summary judgment decision. *See Blunt v. Lower Merion Sch. Dist.*, 767 F.3d 247, 265 (3d Cir. 2014). Summary judgment is appropriate where "the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

² A Magistrate Judge proceeded with the parties' consent. *See* 28 U.S.C. § 636(c). Although Carter amended his complaint and added Defendants Cochran, Drayer, and Jordan after the initial defendants consented to the jurisdiction of the Magistrate Judge, we conclude that the additional defendants, actively participating in the case and having stressed their consent on appeal, impliedly consented to the jurisdiction of the Magistrate Judge. *See Roell v. Withrow*, 538 U.S. 580, 590-91 (2003).

and (5) any efforts made to temper the severity of a forceful response.” *Giles v. Kearney*, 571 F.3d 318, 326 (3d Cir. 2009) (discussing the *Whitley* factors identified in *Whitley v. Albers*, 475 U.S. 312, 321 (1986)).

When reviewing motions for summary judgment, courts “must construe the evidence and draw all reasonable inferences in the light most favorable to the party opposing the motion[.]” unless “there is a reliable video depicting the events in question[.]” *Jacobs v. Cumberland Cnty.*, 8 F.4th 187, 192 (3d Cir. 2021). In that case, “[w]hen opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment.” *Scott v. Harris*, 550 U.S. 372, 380 (2007).

After reviewing video footage of the incident, the District Court concluded that all five *Whitley* factors supported summary judgment in the Defendants’ favor because Carter attempted to break away from the correctional officers, their force was proportionate to the risk Carter posed, and the record failed to establish that Carter had experienced any significant harm.

On appeal, Carter argues that the District Court erred because the video footage could support either version of events and therefore it was improper for the District Court to accept Defendants’ version of the incident at the summary judgment stage.³ We agree.

³ Carter also argues that the District Court improperly disregarded medical records indicating that his shoulder was injured after an altercation with correctional officers. Although Carter provided a copy of this medical note in his brief on appeal, the record before the District Court did not include this document, and therefore we will not

First, the District Court determined that Defendants' use of force was proportionate because the video clearly depicts Carter's attempt to break free from the officers. However, based on our review of the video evidence, Carter's version of events—that he was pushed into the wall after he insulted Defendant Baumcratz—is just as plausible.

The District Court also concluded that the use of OC spray was brief because the video did not show any officers coughing, wiping their eyes, or otherwise reacting to it. However, the handheld footage shows Sargeant Cochran coughing when he arrived on scene and again as they escorted Carter to be medical triage. Defendant Baumcratz is also shown coughing and wiping his face, and although he alleged that Carter spit in his face, that fact is in dispute. Defendant Johnson, who is holding the handheld camera, is also audibly heard coughing when they return to the area where the OC spray was deployed. Finally, a large puddle of OC spray is visible on the floor and Carter argues that this puddle demonstrates that the OC spray was not deployed briefly.⁴

The District Court accepted Carter's assertion that Defendants were aware he was medically contraindicated for OC spray but nonetheless concluded that Defendants' brief deployment was proportionate to the risk Carter posed. However, the District Court based this conclusion on its own interpretation of the video evidence and in disregard for the material facts in dispute. Throughout the entirety of the interaction, Carter was handcuffed and tethered. When OC spray was deployed, four officers were actively

consider it.

⁴ The end of the handheld footage shows one of the correctional officers warning Carter about the puddle and advising him to walk around it before he enters his cell.

restraining him, and the parties dispute whether Carter tried to bite Defendant Johnson. Because it's unclear whether Carter posed a threat to Defendants at any point during the altercation, a reasonable juror might find that any deployment of OC spray on an asthmatic and restrained inmate was "for the very purpose of causing harm." *Whitley*, 475 U.S. at 321 (internal quotations omitted).

In sum, the video evidence in this case does not clearly support one version of events and blatantly contradict the other. *See Baylock v. City of Phila.*, 504 F.3d 405, 414 (3d Cir. 2007); *cf. Scott*, 550 U.S. at 378 (relying on "videotape [that] quite clearly contradicts the version of the story told by respondent"). Therefore, it was inappropriate for the District Court to accept Defendants' version of this incident at the summary-judgment stage.⁵ *See Rivas v. City of Passaic*, 365 F.3d 181, 199 (3d Cir. 2004). Because we disagree with the District Court's determination that no reasonable jury could find an excessive use of force, we conclude that the District Court also improperly entered summary judgment in Defendants' favor regarding Carter's "failure to intervene" claim. *See Smith v. Mesinger*, 293 F.3d 641, 650-51 (3d Cir. 2002).

Carter's deliberate indifference claim should have also survived summary judgment. To succeed on a claim of deliberate indifference to a serious medical need, a plaintiff must show that: (1) "[a] defendant[] [was] deliberately indifferent to [his] medical needs" and (2) "those needs were [objectively] serious." *Pearson v. Prison*

⁵ As for Defendants' argument that they are entitled to qualified immunity, the District Court did not address this issue and should be able to do so in the first instance.

Health Serv., 850 F.3d 526, 534 (3d Cir. 2017) (citation altered). This Court has found deliberate indifference “where the prison official (1) knows of a prisoner’s need for medical treatment but intentionally refuses to provide it; (2) delays necessary medical treatment based on a non-medical reason; or (3) prevents a prisoner from receiving needed or recommended medical treatment.” *Rouse v. Plantier*, 182 F.3d 192, 197 (3d Cir. 1999) (citation omitted).

On appeal, Carter argues the District Court improperly characterized this claim as related to the medical treatment he received immediately after his exposure to OC spray. We agree. The District Court opined that, “Carter makes no argument that these Defendants deprived him of medical treatment[.]” However, in his operative complaint, Carter clearly alleged that Defendants were deliberately indifferent to his serious medical need because they did not take any action to assist him after he was returned to his cell and proceeded to suffer from an asthma attack.⁶ Carter alleged he pressed the emergency call button requesting medical assistance, and Defendant Baumcratz responded by threatening to spray him again if he did not stop pressing the button. To support his allegations, Carter provided a declaration from his pod mate, Darion Mitchell, wherein he stated that after Carter began to have trouble breathing, Mitchell tried to contact Defendants for medical assistance by hitting the emergency call button, and the “bubble officer” told him “to ‘mind my business’ and stop hitting my call button.” Carter also provided a declaration from his cellmate, Douglas Pugh, who stated that he also hit the

⁶ The parties do not dispute whether Carter’s asthma attack constituted a serious medical need.

call button to alert Defendants to Carter's ongoing asthma attack, to no avail, and that at one point Carter struggled to breathe to the point of blacking out.

In its analysis of this claim, the District Court did not acknowledge the declarations Carter provided.⁷ Instead, it sidestepped the issue altogether by relying solely on the video footage to conclude that the "record does not support that Carter experienced an asthma attack on February 27, 2017." Because Carter's claim pertained to Defendants' conduct after he was returned to his cell, the District Court erroneously failed to consider Carter's evidence in support.⁸ *See Lupyan v. Corinthian Colleges Inc.*, 761 F.3d 314, 320 (3d Cir. 2014) ("[A] single, non-conclusory affidavit or witness's testimony, when based on personal knowledge and directed at a material issue, is sufficient to defeat summary judgment.").

We conclude there is a dispute of material fact as to whether Carter plausibly established that he had a severe asthma attack in his cell after he was seen by medical, and that Defendants failed to provide Carter access to necessary medical treatment for non-medical reasons. Therefore, the District Court improperly disposed of this claim at the summary judgment stage. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (discussing a finding of deliberate indifference to a medical need when evidence shows

⁷ The District Court does, however, mention these declarations as support that Carter used offensive language toward Defendant Baumcratz.

⁸ Defendants argue on appeal that they were only required to act and offer Carter additional medical assistance if they had reason to believe that Defendant Jordan was mistreating Carter or not treating him at all. However, this argument is not persuasive because Defendant Jordan's medical report specifically stated, "follow up as needed." Certainly, a reasonable juror might find that Carter's prolonged asthma attack created a need for medical follow up.

that a defendant knew of and “disregard[ed] an excessive risk to [an inmate’s] health or safety”).

IV.

Because there are material factual disputes in the record precluding summary judgment on Carter’s claims, we will vacate the judgment of the District Court and remand for further proceedings. We take no position on the outcome of the case.