

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 26-2526

ORLANDO BAEZ,
Appellant

v.

ANTHONY MICHAEL LETIZIO, DO; STEPHEN KAMINSKY, PA; JANE DOE;
JOHN DOE; TODD FAUBERT; SHAWN GOSNER; ANDREW PLUHAR;
BRITTANY HUNER, CHCA: CORRECTIONAL HEALTH CARE
ADMINISTRATOR; MONICA SAVAGE, RNS; REGISTER NURSE SUPERVISOR

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 2:23-cv-01827)
District Judge: Honorable Gerald J. Pappert

Submitted for Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B) or
Summary Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
September 17, 2026
Before: SHWARTZ, FREEMAN, and CHUNG, *Circuit Judges*

(Opinion filed: October 6, 2026)

OPINION*

PER CURIAM

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

Orlando Baez, a pro se state inmate serving a capital sentence, appeals from the District Court's order granting summary judgment to the defendants on his civil rights claims. Because no substantial question is presented on appeal, we will summarily affirm.

After Baez initiated suit in Pennsylvania state court, the case was removed, to the United States District Court for the Eastern District of Pennsylvania, where Baez's claims, as amended, proceeded against four individuals who worked at the prison (a doctor, a physician assistant, and two grievance officers) under 42 U.S.C. § 1983. He alleged Eighth Amendment deliberate indifference to his serious medical needs, First Amendment retaliation, and civil conspiracy. Following motions practice, the defendants moved for summary judgment in two groups and the District Court granted their motions. Baez appeals and moves for appointment of counsel.

We have jurisdiction under 28 U.S.C. § 1291. The Court reviews the District Court's grant of summary judgment de novo. *Dondero v. Lower Milford Twp.*, 5 F.4th 355, 358 (3d Cir. 2021). Summary judgment is appropriate "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). Upon review, we will take summary action because the appeal presents no substantial question. *See* 3d Cir. L.A.R. 27.4; 3d Cir. I.O.P. 10.6.

A claim that a prisoner received constitutionally inadequate medical care requires a showing that the care was so grossly inadequate that it amounted to "serious neglect or mistreatment," not mere disagreement with the course of treatment, i.e., that the treatment

fell outside professional standards of care “in some extreme way...more than mere medical malpractice.” *DiFraia v. Ransom*, 171 F.4th 622, 629 (3d Cir. 2026) (cleaned up). At summary judgment, once the defendants point to a record showing regular, ongoing treatment, the plaintiffs must identify specific record evidence, not conclusory assertions, from which a reasonable jury could find the care fell outside professional standards. *See Pearson v. Prison Health Service*, 850 F.3d 526, 535–37 (3d Cir. 2017).

Baez’s Eighth Amendment claim rests on the adequacy of the treatment he received for his lupus and other medical conditions, and the record forecloses it. Between October 2021 and March 2023, Baez had three outside rheumatology appointments, received weekly Methotrexate injections prescribed by his rheumatologist, along with Gabapentin, Tramadol, Robaxin, Neurontin, and Pamelor, had additional treatment for his vision and hearing, and was seen at numerous sick call visits. Baez’s central complaint, that he was not taken to a rheumatology appointment in January 2022 and thus was denied “Prescribed and Recommended Lupus Treatment,” CA Doc. 25 at 24, does not establish deliberate indifference, particularly where he continued to receive regular rheumatology care before and after that date. Baez identifies no such evidence on appeal to suggest that there was a triable issue in the District Court, *see* CA Doc. 13, and his conclusory assertion that his claims “are all true,” *id.* at 8, does not change that conclusion.

Baez’s First Amendment retaliation claim fares no better. To make a sufficient showing on the necessary elements, he had to establish that he engaged in protected speech, that the defendants took an adverse action against him, and that a causal

connection exists between the two. *Lauren W. ex rel. Jean W. v. DeFlaminis*, 480 F.3d 259, 267 (3d Cir. 2007). The defendants argued that they took no adverse action against Baez and that there was no evidence linking any action they took to his grievances.

The denial of Baez’s grievances is not itself adverse action, as it would not deter a person of ordinary firmness from continuing to exercise their rights. *Burgos v. Canino*, 641 F. Supp. 2d 443, 455 (E.D. Pa. 2009), *aff’d per curium*, 358 F. App’x 302, 306–07 (3d Cir. 2009); *see generally Rauser v. Horn*, 241 F.3d 330, 333 (3d Cir. 2001) (explaining that an action is adverse only if it is “sufficient to deter a person of ordinary firmness” from exercising their right to speak) (quotation marks and citation omitted); *cf. Brightwell v. Lehman*, 637 F.3d 187, 194 (3d Cir. 2011) (concluding that issuing a misconduct report charging a prisoner with filing a false grievance was not an adverse action); *Smith v. City of Atl. City*, 138 F.4th 759, 775-776 (3d Cir. 2025). Baez separately alleged that the Medical Defendants refused him treatment and confiscated his wheelchair and knee brace in retaliation for his grievances. As explained, he received continuing care for his lupus and other ailments, and there is no support for the proposition that his treatment was terminated. As for the claimed confiscations, the Medical Defendants argued that Baez failed to establish that the defendants even knew of his protected conduct. Baez did not respond in the District Court with evidence connecting either the confiscation or the alleged treatment refusal to his protected activity.

Finally, a § 1983 conspiracy claim requires a showing that two or more persons acting under color of state law, agreed to deprive the plaintiff of a constitutional right,

that a coconspirator took an overt act to carry out that plan, and that the overt act deprived the plaintiff of a constitutional right. *Jutrowski v. Twp. of Riverdale*, d, 294 n.15 (3d Cir. 2018). Because no reasonable jury could find that defendants violated Baez’s Eighth or First Amendment rights, *see supra*, his conspiracy claim fails: without an underlying violation, there is no deprivation of a constitutional right for any agreement to have caused.¹ *See id.*

For these reasons, we will affirm the District Court’s judgment. Baez’s motion for appointment of counsel is denied.

¹ To the extent that Baez asserts that the District Court has become involved in the alleged conspiracy or was otherwise partial to the defendants, *see* CA Doc. 13 at 5, 9, we discern no evidence of bias.