

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

PAULA BAILEY; KRYSTAL CLARK; HOPE ZENTZ,
Plaintiffs-Appellees,

v.

MICHIGAN DEPARTMENT OF CORRECTIONS,
Defendant,

HEIDI E. WASHINGTON; JEREMY HOWARD; SHAWN
BREWER; KENNETH T. MCKEE; JEREMY BUSH; LIA
GULICK; ED VALLARD; DAVID JOHNSON; KARRI
OUSTERHOUT; JOSEPH TREPPA; DAN CARTER; JOEL
DREFFS; RICHARD BULLARD; TONI MOORE,
Defendants-Appellants.

No. 25-1608

Appeal from the United States District Court for the Eastern District of Michigan at Detroit.
No. 2:19-cv-13442—Stephen Joseph Murphy III, District Judge.

Argued: July 29, 2026

Decided and Filed: October 15, 2026

Before: GILMAN, GRIFFIN, and READLER, Circuit Judges.

COUNSEL

ARGUED: Joshua S. Smith, OFFICE OF THE MICHIGAN ATTORNEY GENERAL, Lansing, Michigan, for Appellants. Channing Robinson-Holmes, PITT MCGEHEE PALMER BONANNI & RIVERS, PC, Royal Oak, Michigan, for Appellees. **ON BRIEF:** Joshua S. Smith, OFFICE OF THE MICHIGAN ATTORNEY GENERAL, Lansing, Michigan, for Appellants. Channing Robinson-Holmes, Beth M. Rivers, Cary S. McGehee, PITT MCGEHEE PALMER BONANNI & RIVERS, PC, Royal Oak, Michigan, Rebekah L. Bailey, Grace I. Chanin, Matthew H. Morgan, NICHOLS KASTER, PLLP, Minneapolis, Minnesota, Jonathan R. Marko, MARKO LAW, PLLC, Detroit, Michigan, David S. Steingold, Samantha M. Baker,

LAW OFFICES OF DAVID S. STEINGOLD, PLLC, Detroit, Michigan, Shiraz Khan, THE SHIRAZ LAW FIRM, PLLC, Bingham Farms, Michigan, for Appellees.

GRIFFIN, J., delivered the opinion of the court in which READLER, J., concurred, and GILMAN, J., concurred in part. GILMAN, J. (pp. 16–20), delivered a separate opinion concurring in part and dissenting in part.

OPINION

GRIFFIN, Circuit Judge.

Plaintiffs are current or former inmates at the Women’s Huron Valley Correctional Facility in Michigan. They sued defendants, alleging that pervasive mold in the facility had caused serious harm to them in violation of the Eighth Amendment and state law. Defendants moved for judgment on the pleadings, arguing that they were entitled to qualified immunity under federal law and governmental immunity under state law. The district court disagreed on both accounts. We affirm as to nine of the fourteen defendants but reverse as to five because the complaint makes only conclusory, non-fact-based allegations against the latter.

I.

A.

The Women’s Huron Valley Correctional Facility (Huron Valley) houses more than 2,000 inmates. As alleged in the second amended complaint, the prison is “a breeding ground for biological contaminations, including microscopic fungi [and] spore-producing mold.”

According to the complaint, mold has been found in shower units, where it has been “especially extreme for more than five years,” “visibly covering the walls, ceilings, and floors.” It also grows in closets, sinks, toilets, hallways, air vents, and near windows. The mold is “green, black, and fuzzy,” “slimy to the touch,” and “sticky.” It eats through bricks and door frames and has caused tiles to peel up from the floor. And testing in air ducts revealed moderate to heavy fungal concentration, while air samples revealed unhealthy mold concentrations.

The complaint also alleges that plaintiffs and other inmates repeatedly voiced concerns about the mold. An inmate committee wrote to Warden Shawn Brewer in 2018, “complaining that women were ‘experiencing health problems due to environmental hazards.’” The committee also wrote a similar letter to Heidi Washington, Director of the Michigan Department of Corrections (MDOC), and to Deputy Warden David Johnson. And inmates have lodged grievances and complaints with Director Washington, Warden Brewer, and Acting Warden Jeremy Howard about the mold and their health concerns. Guards, meanwhile, have refused to work in buildings with the worst mold, and several have complained of symptoms.

But nothing was done to eradicate the mold. Instead, officials allegedly sought to conceal it. For example, Warden Brewer, Deputy Warden Karri Osterhout, and Deputy Warden Johnson ordered workers to paint over the mold on several occasions. Physical Plant Supervisors Joseph Treppa, Dan Carter, and Joel Dreffs, along with Physical Plant Superintendent Richard Bullard, also painted over mold and instructed workers to hide it with grout. And when inmates complained about the mold to Warden Brewer, he deflected, stating that Director Washington was responsible for fixing the problem. Inmates even requested fungus remover to combat the mold themselves, but Warden Brewer denied the request, retorting that “if they scrubbed harder, the mold would be gone.”

All the while, inmates became ill. Plaintiff Paula Bailey was an inmate at Huron Valley from 2009 to 2021. She first noticed mold in 2016. While in the shower, black mold dripped from the ceiling onto her face and body, causing a rash that led to furious itching and visible scars. She also suffered from “sneezing, constant coughing, shortness of breath, wheezing, dry, scaly skin, nosebleeds, weight gain, muscle cramping, headaches, hair loss, rashes that would blister and scar, chest pain, fatigue, frequent upper respiratory infections, and difficulty breathing.”

In April 2018, nurses told Bailey that her symptoms were “related to mold exposure.” Around the same time, she began suffering from a respiratory infection that lasted several months, and she began waking up at night “coughing uncontrollably and had to be treated with inhalers, antihistamines, and nebulizer treatments,” sometimes having seizures. But, despite

repeated complaints, the “persistent and constant mold growth” was never abated while she was incarcerated.

After being released, nurses confirmed that Bailey’s “medical conditions were caused by her environment, particularly the poor ventilation and related mold at the facility,” and a doctor said that “her seizures could have been caused by an infection in her brain from mold or environmental issues” at Huron Valley. Bailey continues to live with chronic obstructive pulmonary disease.

Plaintiff Krystal Clark is a current inmate at Huron Valley, where she has been incarcerated since 2011. That same year, she began suffering from many ailments, including

severe respiratory issues, uncontrollable asthma, shortness of breath, breakouts on her face, rashes on her arms, legs, and ankles, weight gain, nosebleeds, incessant coughing, headaches, dizziness, bacterial infections, severe eye infections that have resulted in having to wear an eye patch, and most recently, ear infections that caused hearing loss and a white residue to grow and leak from her ears.

Around the same time, she observed black mold dripping in the showers, in cracks in the walls, and near the drains. She was given a mask to wear while showering and told to limit her time there, but she continued to experience breathing issues and rashes. She filed a formal complaint and complained directly to Warden Brewer through the grievance process. She also wrote letters to Director Washington, but Washington never responded.

In 2015, Clark was hospitalized for relentless coughing fits and breathing issues, and she was diagnosed with bronchitis. In 2020, she was twice sent to the hospital for a lung test, but it was never performed because of the severity of her respiratory distress. Then, in 2022, an allergist “confirmed that her symptoms were due to mold exposure,” and a doctor at Huron Valley told her that she would likely not get better there. She has twice been diagnosed with pneumonia, has black spots on her abdomen and chest, and takes numerous medications to help her breathe.

Plaintiff Hope Zentz is a current inmate at Huron Valley, where she has been since 2011. She has “observed mold dripping from the ceiling and from light fixtures in the shower area, and

on the windows, heat registers, and vents.” She has also experienced black mold oozing onto her face and body while showering.

Zentz ended up developing “a rash, a continuous cough, sore and scratchy throat, severe sinus issues . . . mental foggiess, dizziness, vision problems, hair loss, nosebleeds, lethargy, body cramps, and nausea.” She also “suffers from trouble breathing, coughing, and wheezing, which worsens at night.” And, in 2019, Zentz experienced a painful nasal infection for two months, with green mucus running from her nose; she also developed a rash of hard, liquid-filled bumps on her arms, legs, stomach, neck, and face, all of which caused extreme itching. She sought medical care and was diagnosed with bacterial and fungal infections.

A nurse at Huron Valley told Zentz that “her respiratory problems were probably caused by exposure to mold,” and Zentz complained to Warden Brewer about the presence of mold on numerous occasions. Zentz continues to suffer from her symptoms.

B.

On November 20, 2019, plaintiffs filed suit. They alleged violations of the Eighth Amendment by all 14 defendants and negligence by 13 defendants, not including Director Washington. Defendants moved for judgment on the pleadings, arguing, in part, that they were entitled to qualified immunity on the Eighth Amendment claim and governmental immunity on the negligence claim.

The district court found that plaintiffs had stated a claim for a clearly established violation of the Eighth Amendment and, thus, concluded that defendants were not entitled to qualified immunity. It also found that plaintiffs had plausibly pleaded that defendants’ gross negligence was the proximate cause of their injuries, so defendants were not entitled to governmental immunity either. Thus, the district court denied defendants’ motion for judgment on the pleadings based on these immunity grounds.

Defendants timely appealed.

II.

We have jurisdiction over an order denying a motion for judgment on the pleadings “when the order conclusively determines” that a defendant is not entitled to qualified immunity. *Myers v. City of Centerville*, 41 F.4th 746, 756 (6th Cir. 2022) (citation modified). Similarly, we have jurisdiction to consider an order that denies governmental immunity under Michigan law. *Kerchen v. Univ. of Mich.*, 100 F.4th 751, 759 (6th Cir. 2024).

We review the district court’s denial of a motion for judgment on the pleadings de novo. *D’Ambrosio v. Marino*, 747 F.3d 378, 383 (6th Cir. 2014). A motion for judgment on the pleadings is “properly denied where the complaint contains sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Myers*, 41 F.4th at 757 (citation modified). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). But we do not accept conclusory allegations “masquerading as factual allegations” or make “unwarranted factual inferences.” *D’Ambrosio*, 747 F.3d at 383.

III.

To overcome the bar of qualified immunity, plaintiffs must show that defendants (1) violated a federal statutory or constitutional right, and (2) the unlawfulness of their conduct was clearly established at the time of the challenged conduct. *Guertin v. Michigan*, 912 F.3d 907, 917 (6th Cir. 2019). In other words, plaintiffs need to “alleg[e] facts plausibly making out a claim that [defendants’] conduct violated a constitutional right that was clearly established law at the time, such that a reasonable [person] would have known that his conduct violated that right.” *Johnson v. Moseley*, 790 F.3d 649, 653 (6th Cir. 2015). If plaintiffs fail to do so, defendants are entitled to dismissal before discovery begins. *Crawford v. Tilley*, 15 F.4th 752, 760 (6th Cir. 2021).

Defendants argue that plaintiffs failed to plausibly plead that each defendant’s actions personally violated any Eighth Amendment right under clearly established law. We review de

novo. *Guertin*, 912 F.3d at 917. Although we can address the qualified-immunity prongs in any order, *Pearson v. Callahan*, 555 U.S. 223, 236 (2009), we begin with the first.

A.

“[A] prison official’s deliberate indifference to conditions that pose a substantial risk to an inmate’s health and safety violates the Eighth Amendment.” *Finley v. Huss*, 102 F.4th 789, 805 (6th Cir. 2024) (citing *Farmer v. Brennan*, 511 U.S. 825, 828 (1994)). These are known as conditions-of-confinement claims, which have both an objective and subjective component. *Pearson v. Mich. Dep’t of Corr.*, 170 F.4th 1027, 1040 (6th Cir. 2026).

1.

Objectively, we ask “whether the challenged condition posed a sufficiently serious risk of harm.” *Id.* at 1041 (citation modified). Because “routine discomfort is part of the penalty that criminal offenders pay for their offenses against society, only those deprivations denying the minimal civilized measure of life’s necessities are sufficiently grave to form the basis of an Eighth Amendment violation.” *Hudson v. McMillian*, 503 U.S. 1, 9 (1992). The inquiry is guided by “contemporary standards of decency,” with “extreme deprivations” required “to make out a conditions-of-confinement claim.” *Id.* at 8–9.

Defendants argue that plaintiffs might have “experienced discomfort” from the presence of mold in Huron Valley, but nothing rising to the level of an Eighth Amendment violation. And they cite four lower-court decisions from this circuit in support of the proposition that society has chosen to tolerate some exposure to mold.

None persuades. *McIntyre v. Phillips* actually cuts against defendants’ argument because that court recognized that alleging “the presence of black mold,” efforts taken to “mask” it, and “direct physical manifestations” of harm from it—all like the situation here—could support a conditions-of-confinement claim. 2007 WL 2986470, at *3 (W.D. Mich. Sept. 10, 2007). So too does *Daniels v. Tharp*, which similarly stated that alleging a mold infestation, awareness of that infestation, and symptoms caused by exposure may be enough to state a viable Eighth Amendment claim. 2019 WL 400396, at *3 (N.D. Ohio Jan. 31, 2019). Regarding the two other

cases, those plaintiffs did not allege injuries from mold exposure, so they are distinguishable from the situation alleged here. *See Sanchez v. Osborne*, 2010 WL 1663641, at *2 (W.D. Ky. Apr. 23, 2010); *Page v. Clark*, 2022 WL 16924122, at *2–3 (W.D. Ky. Nov. 14, 2022).

Still, defendants contend that more “egregious,” “heinous, even outrageous” allegations are required. Even accepting that framing, plaintiffs assert that their complaint suffices because sustained exposure to a harmful substance that causes severe injury is sufficiently outrageous to allege an Eighth Amendment violation. The standard is whether the alleged conditions violate the “concepts of dignity, civilized standards, humanity, and decency that animate the Eighth Amendment.” *Hudson*, 503 U.S. at 8–9, 11. And contemporary standards of decency do not tolerate prolonged exposure to mold so pervasive and serious that it allegedly drips onto inmates regularly, exceeds healthy airborne levels, and causes severe respiratory conditions, rashes, and seizures. *See Helling v. McKinney*, 509 U.S. 25, 28, 33 (1993) (stating that, with respect to allegations of being “assigned to a cell with another inmate who smoked five packs of cigarettes a day” and exposed to “cigarettes burn[ing] continuously” elsewhere, prison authorities may not “ignore a condition of confinement that is sure or very likely to cause serious illness and needless suffering”).

Thus, plaintiffs satisfy the objective component for a conditions-of-confinement claim under the Eighth Amendment.

2.

Turning to the subjective component, we ask “whether officials knew of and disregarded” a substantial risk to inmates’ health and safety. *Finley*, 102 F.4th at 805. To satisfy this component, plaintiffs must show that each defendant “(1) knew about facts from which they could infer that a substantial risk existed, (2) drew that inference, and (3) disregarded the risk.” *Id.* Deliberate indifference must be assessed individually, not in gross. *Reilly v. Vadlamudi*, 680 F.3d 617, 624–25 (6th Cir. 2012); *Pearson*, 170 F.4th at 1037.

Defendants argue, in various ways, that plaintiffs failed to plead personal involvement by each defendant and therefore fail to make out a plausible Eighth Amendment claim. Plaintiffs counter that this argument goes more to the sufficiency of the pleadings rather than whether

defendants are entitled to qualified immunity. But whether plaintiffs' allegations plausibly plead deliberate indifference is a question properly before us when considering qualified immunity at the pleadings stage. *See Iqbal*, 556 U.S. at 672–73, 683.

The most fulsome allegations involve Warden Brewer. The complaint alleges that inmates complained to him “specifically” about “mold growth on surfaces in the units,” he observed mold in the showers, and inmates filed grievances to him directly about “respiratory ailments” and “biological contamination in the facility.” Plaintiffs Clark and Zentz also complained to him directly. And the inmate committee complained about “health problems due to environmental hazards” and “mold le[a]ching levels of toxins into the air.” Despite all this, Warden Brewer “denied the mold’s existence” and told inmates they could not mention the “mold problem.” He also had “areas of the facility that had the most noticeable signs of mold” painted over. And he instructed guards to wear protective covering to minimize the impact of mold exposure. But he never took measures to address the mold, claiming that he was first “waiting on [a] call from [MDOC Director Washington].” On these allegations, it is certainly plausible that Warden Brewer knew about facts from which he could infer that a substantial risk of serious harm to inmates existed, drew that inference, and disregarded the risk.

Acting Warden Howard was also allegedly aware of the mold conditions at Huron Valley. He directly received grievances from inmates complaining of “respiratory ailments” and “biological contamination” in the facility, and complaints from the inmate committee about “biological contamination like mold in the facility, and of medical symptoms related to biological contamination.” These allegations plausibly plead that Howard also knew about facts from which he could infer that a substantial risk of serious harm to inmates existed, drew that inference, and disregarded the risk.

Regarding the remaining Huron Valley defendants, Deputy Warden Johnson received a letter about conditions in the facility, completed regular inspection walkthroughs where mold was spotted and ignored, and instructed maintenance crews to paint over it. Deputy Warden Osterhout inspected moldy showers, told inmates to hide conditions from inspectors, similarly completed regular inspection walkthroughs where mold was spotted and ignored, and also instructed maintenance crews to paint over it. Physical Plant Supervisors Treppa, Carter, and

Drepps planned and coordinated Huron Valley's maintenance activities, painted over mold after regular inspection walkthroughs, and instructed maintenance workers to conceal mold with grout. And Physical Plant Superintendent Bullard inspected the facility's conditions, detailed extensive problems contributing to a mold-friendly environment, and painted over mold after regular inspections. On these allegations, the complaint sufficiently demonstrates, at this stage of the proceedings, that these defendants plausibly knew about facts from which they could infer that a substantial risk existed, drew that inference, and disregarded the risk.

Regarding Director Washington, Clark wrote letters to alert her to the mold conditions at Huron Valley and the health problems that Clark was experiencing, but Washington never responded. Inmates also filed grievances complaining of "respiratory issues and mold-related ailments" and "biological contamination in the facility" that went to Director Washington at step three of the grievance process. And the inmate committee wrote her a letter about conditions in the facility. These allegations, taken together, plausibly plead that Director Washington knew about facts from which she could infer that a substantial risk of serious harm existed and drew that inference; and, because she never gave the go-ahead to Warden Brewer to eradicate the mold or responded to Clark's letters, it is plausible that she disregarded the risk.

The same is not true, however, for the remaining MDOC officials: Deputy Director Kenneth McKee, Assistant Deputy Director Jeremy Bush, Acting Deputy Director Lia Gulick, Physical Plant Division Administrator Ed Vallad, and State Administrative Manager Toni Moore. The complaint lumps these defendants together, alleging in gross and in conclusory fashion that they had "actual knowledge of [the mold's] existence and prevalence, and [they] disregarded the substantial risk of serious inmate harm that resulted from long-term mold exposure." But simply "plead[ing] facts that are 'merely consistent with' a defendant's liability . . . 'stops short of the line between possibility and plausibility of entitlement to relief.'" *Iqbal*, 556 U.S. at 678 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557 (2007)).

The complaint also alleges that these defendants—again, in gross—were "actually aware of the extensive mold problem," "actually observed it," "received numerous complaints about [it from] detainees and inmates," and "direct[ed]" MDOC personnel "to conceal it." But, in contrast to the allegations against the other nine defendants, these amount only to "naked

assertion[s]' devoid of 'further factual enhancement.'" *Id.* (quoting *Twombly*, 550 U.S. at 557). No factual context—e.g., that they directly received grievances or covered over mold after inspection walkthroughs—is provided to allow the reasonable inference that they plausibly knew about facts from which they could infer that a substantial risk existed, drew that inference, and disregarded the risk. *Cf. id.* at 679 (explaining that where a court can infer only the mere possibility of misconduct, the complaint has alleged, but not shown, that the pleader is entitled to relief); *Twombly*, 550 U.S. at 555 (requiring more than merely creating suspicion of a legally cognizable right of action); *Talal v. White*, 403 F.3d 423, 427 (6th Cir. 2005) ("To prevail under the subjective component, a prisoner must allege *specific incidents* of deliberate indifference by prison officials." (emphasis added)).

Accordingly, Deputy Director McKee, Assistant Deputy Director Bush, Acting Deputy Director Gulick, Physical Plant Division Administrator Vallad, and State Administrative Manager Moore are entitled to qualified immunity on plaintiffs' Eighth Amendment claim.

B.

Turning to the second prong, plaintiffs must show that the law clearly established the unconstitutionality of the remaining nine defendants' conduct. *Pearson*, 170 F.4th at 1037. "'Clearly established' means that, at the time of the [challenged] conduct, the law was 'sufficiently clear' that every 'reasonable official would understand that what he is doing' is unlawful." *District of Columbia v. Wesby*, 583 U.S. 48, 63 (2018) (quoting *Ashcroft v. al-Kidd*, 553 U.S. 731, 741 (2011)). "[I]n determining whether a right was clearly established, we look first to decisions of the Supreme Court, then to our own precedents, and then to decisions of other courts of appeal." *Hearring v. Sliwowski*, 712 F.3d 275, 280 (6th Cir. 2013).

We need look no further than *Helling*. There, prison authorities forced the plaintiff to share "a cell with another inmate who smoked five packs of cigarettes a day" and did nothing to curb "cigarettes burn[ing] continuously, releasing some type of chemical" into the facility. 509 U.S. at 28. Against this backdrop, the prisoner complained of health problems allegedly caused by such unceasing and pervasive exposure to cigarette smoke. *Id.* The lower court concluded that it would constitute cruel and unusual punishment to house a prisoner in these

conditions, and the Court affirmed that “alleging that [defendants] have, with deliberate indifference, exposed [plaintiff] to levels of [environmental tobacco smoke] that pose an unreasonable risk of serious damage to his future health” states a cause of action under the Eighth Amendment. *Id.* at 35.

Helling established that prison authorities may not ignore conditions of confinement that are “sure or very likely to cause serious illness and needless suffering the next week or month or year.” *Id.* at 33. And, beyond the context of cigarette smoke, the Court recognized that “there may be situations in which exposure to toxic or similar substances would present a risk of sufficient likelihood or magnitude—and in which there is a sufficiently broad consensus that exposure of *anyone* to the substance should therefore be prevented.” *Id.* at 34 (citation modified) (emphasis in original).

The conditions at Huron Valley, as alleged by plaintiffs, are such a situation—pervasive and prolonged exposure to substantial mold that poses serious risks to human health throughout the prison, to the point where airborne concentrations have exceeded healthy levels and ongoing exposure has led to severe respiratory diseases, rashes, and seizures. These conditions are not only “sure or very likely to cause serious illness and needless suffering the next week or month or year”—allegedly, they already have. *Id.* at 33. And it is beyond debate that prison officials cannot ignore prolonged, involuntary exposure of anyone to an airborne pollutant that is substantially likely to cause serious harm. *See id.* at 33–35; *cf. Pearson*, 170 F.4th at 1041 (contagious disease); *Vega v. Semple*, 963 F.3d 259, 276–77 (2d Cir. 2020) (radon); *Board v. Farnham*, 394 F.3d 469, 486 (7th Cir. 2005) (fiberglass dust); *Patton v. Bechtler*, 9 F.3d 109, 1993 WL 428683, at *3 (6th Cir. 1993) (table) (asbestos). Thus, plaintiffs have plausibly pleaded a violation of an Eighth Amendment right that was clearly established law at the time of defendants’ challenged conduct.

Defendants disagree, arguing that plaintiffs must present cases specifically addressing each type of mold alleged to be in Huron Valley to satisfy this prong of the analysis. But we do not necessarily require “a prior, precise situation,” “a finding that the very action in question has previously been held unlawful,” or “a case directly on point.” *Guertin*, 912 F.3d at 932 (citation modified); *Finley*, 102 F.4th at 808 (“[P]laintiffs need not point to a case on all fours with the

instant fact pattern.” (citation modified)); *Pearson*, 170 F.4th at 1042 (“[T]he Inmates did not need to identify a conditions-of-confinement case about *scabies* rather than some *other disease*.” That said, “[t]he relevant precedent must define the right with a high degree of specificity, so that every reasonable official would interpret it to establish the particular rule the plaintiff seeks to apply.” *Zorn v. Linton*, 607 U.S. 568, 572 (2026) (per curiam) (citation modified). Here, as explained above, *Helling* gave defendants fair notice that the law prohibits being deliberately indifferent to a condition of confinement “that is sure or very likely to cause serious illness and needless suffering the next week or month or year,” such as the prolonged and pervasive mold plaintiffs allege. 509 U.S. at 33.

* * *

In sum, at this stage of the proceedings where we take all well-pleaded factual allegations in the complaint as true, Director Washington, Warden Brewer, Acting Warden Howard, Deputy Wardens Johnson and Osterhout, Physical Plant Superintendent Bullard, and Physical Plant Supervisors Treppa, Carter, and Dreffs are not entitled to qualified immunity on plaintiffs’ Eighth Amendment claim.

IV.

Under Michigan law, government officers and employees are “immune from tort liability for an injury to a person” if, as relevant here, their “conduct does not amount to gross negligence that is the proximate cause of the injury or damage.” Mich. Comp. Laws § 691.1407(2)(c). Defendants argue that plaintiffs failed to plausibly plead that defendants’ actions constituted gross negligence that was the proximate cause of their injuries. We review de novo. *Anders v. Cuevas*, 984 F.3d 1166, 1185 (6th Cir. 2021).

A.

“Gross negligence” is “conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.” Mich. Comp. Laws § 691.1407(8)(a). Because “a deliberate indifference finding will necessarily entail a gross negligence finding,” the complaint plausibly pleads gross negligence as to Warden Brewer, Acting Warden Howard, Deputy

Wardens Johnson and Osterhout, Physical Plant Superintendent Bullard, and Physical Plant Supervisors Treppa, Carter, and Dreffs. *Burwell v. City of Lansing*, 7 F.4th 456, 477 (6th Cir. 2021).

As to the remaining defendants, we must analyze each defendant's conduct individually. *See Reilly*, 680 F.3d at 627–28. But, again, the complaint lumps these defendants together and alleges in gross and in conclusory fashion that they were “actually aware of the extensive mold problem,” “actually observed it,” “received numerous complaints about [it from] detainees and inmates,” and “direct[ed]” MDOC personnel “to conceal it.” Such naked assertions without supporting factual content do not suffice. *See id.* at 628 (stating that plausibly pleading gross negligence requires alleging how each defendant, individually, “simply did not care about the safety or welfare of” plaintiffs); *cf. Jones v. Muskegon County*, 625 F.3d 935, 947 (6th Cir. 2010) (deciding, albeit at summary judgment, that a failure to point to any specific officer's wrongful conduct fails to demonstrate that any individual officer was grossly negligent). Nor does the complaint's conclusory allegation that “[t]he conduct of the Defendants was so reckless as to demonstrate a substantial lack of concern for whether injury resulted,” as it simply parrots the definition of “gross negligence” in § 691.1407(8)(a).

Accordingly, Deputy Director McKee, Assistant Deputy Director Bush, Acting Deputy Director Gulick, Physical Plant Division Administrator Vallad, and State Administrative Manager Moore are entitled to governmental immunity on plaintiffs' negligence claim.

B.

Proximate cause is “the one most immediate, efficient, and direct cause preceding an injury.” *Gillman v. City of Troy*, 126 F.4th 1152, 1162 (6th Cir. 2025) (quoting *Robinson v. City of Detroit*, 613 N.W.2d 307, 317 (Mich. 2000)). In other words, “conduct that is merely a proximate cause rather than *the* proximate cause of the injury is insufficient.” *Id.* (citation modified).

Defendants argue that Warden Brewer, Acting Warden Howard, Deputy Wardens Johnson and Osterhout, Physical Plant Superintendent Bullard, and Physical Plant Supervisors Treppa, Carter, and Dreffs “could not have been the proximate cause of plaintiffs' alleged

injuries because the complaint itself is unclear regarding the cause of those injuries.” But this is incorrect.

The complaint unquestionably alleges that harmful mold proliferated throughout the facility and that each plaintiff suffered serious injuries as a result. Further, as recounted above, the complaint alleges that these eight defendants knew of the pervasive mold in Huron Valley, either concealed the mold or refused to eradicate it, and, in many instances, received complaints about the mold’s harms. These allegations plausibly plead that conduct by each of these defendants was the most immediate, efficient, and direct cause of plaintiffs’ injuries.

Moreover, “where, as here, the plaintiff alleges that the defendant’s acts were the proximate cause of the injury, the defendant generally cannot invoke Michigan qualified immunity before at least some fact-finding.” *Krawczyk v. Township of Hagar*, 673 F. App’x 508, 513 (6th Cir. 2016). Defendants might prevail at a later stage of the proceedings, but whether plaintiffs clear “the proximate cause” bar “is an issue of fact currently disputed by the parties and deserving of at least some discovery.” *Id.*

In sum, Warden Brewer, Acting Warden Howard, Deputy Wardens Johnson and Osterhout, Physical Plant Superintendent Bullard, and Physical Plant Supervisors Treppa, Carter, and Dreffs are not entitled to governmental immunity on plaintiffs’ negligence claim.

V.

For the foregoing reasons, we affirm the district court’s denial of qualified immunity as to Director Washington, and its denial of both qualified and governmental immunity to Warden Brewer, Acting Warden Howard, Deputy Wardens Johnson and Osterhout, Physical Plant Superintendent Bullard, and Physical Plant Supervisors Treppa, Carter, and Dreffs. But we reverse the district court’s denial of both qualified and governmental immunity as to Deputy Director McKee, Assistant Deputy Director Bush, Acting Deputy Director Gulick, Physical Plant Division Administrator Vallad, and State Administrative Manager Moore. We remand for further proceedings consistent with this opinion.

CONCURRENCE / DISSENT

RONALD LEE GILMAN, Circuit Judge, concurring in part and dissenting in part.

I concur in all aspects of the majority opinion other than its dismissal of five of the named defendants from this lawsuit. As to those five defendants, I believe that the allegations against them are sufficient to defeat their defenses of qualified and governmental immunity at this stage of the case.

The five defendants in question are Deputy Director Kenneth McKee, Assistant Deputy Director Jeremy Bush, Acting Deputy Director Lia Gulick, Physical Plant Division Administrator Ed Vallad, and State Administrative Manager Toni Moore. They are the layer of supervisory officials at the Michigan Department of Corrections (MDOC) between MDOC Director Heidi Washington and the remaining defendants who directly oversee the Women's Huron Valley Correctional Facility (Huron Valley).

Contrary to the characterization stated in the majority opinion, the allegations against these five defendants are neither “conclusory” nor “in gross.” *See* Maj. Op. at 10–11, 14. The complaint instead specifically and separately alleges that each of these defendants’ job responsibilities caused them to know about Huron Valley’s mold and airflow problems:

- “As Deputy Director for CFA [Correctional Facilities Administration] at MDOC, Defendant McKee is a principal decisionmaker as to the management and operation of MDOC facilities, including WHV [i.e., Women’s Huron Valley]. Defendant McKee is responsible for promulgating and administering MDOC’s policies related to preventive and emergency maintenance.” Second Amended Complaint, ¶¶ 273–74.
- “As Jackson Region Deputy Director, Defendant Bush is aware of the state and conditions of a Jackson-area facility like WHV and is responsible for ensuring the maintenance and improvement of critical infrastructure.” *Id.* ¶ 278.
- “As Deputy Director for the BOA [Budget and Operations Administration] at MDOC, Defendant Gulick is a principal decisionmaker in determining the MDOC’s budget and the allocation of funds as to prisoner healthcare and facility improvements[,], among other matters Defendant Gulick exercises significant

control over facility maintenance and improvements at MDOC facilities, including WHV. *Id.* ¶¶ 282–83.

- “As Physical Plant Division Administrator, Vallad is aware of the state and conditions of the MDOC’s facilities, including WHV, and would be responsible for ensuring the maintenance and improvement of critical infrastructure. Administrator Vallad is a principal decisionmaker as to the physical maintenance and improvement of MDOC facilities, including WHV.” *Id.* ¶ 287–88.
- “As State Administrative Manager, Defendant Moore oversees the administration of Michigan’s correctional system, including WHV Defendant Moore signs off on order requests submitted by the Physical Plant Supervisors at WHV for maintenance materials and supplies, thereby controlling the flow of necessary repairs at WHV.” *Id.* ¶ 291–92.

The complaint further alleges that, as a result of their positions, these defendants had not only the authority, but also the duty, “to take speedy and effective measures to ensure the health and safety of WHV inmates from the health hazards caused by these ongoing infrastructural failures within WHV, to secure facility improvements so as to prevent further health hazards in the facility, and to report these health hazards to their superiors,” yet they failed to do so. Second Amended Complaint, ¶¶ 440, 450, 455, 466, 475.

This case is unlike *Pearson v. Michigan Department of Corrections*, 170 F.4th 1027 (6th Cir. 2026), a recent case involving Huron Valley. *See* Maj. Op. at 8. *Pearson* concerned a scabies outbreak at the prison. 170 F.4th at 1032. MDOC had outsourced the relevant responsibilities to a medical contractor, Corizon Health. *Id.* Corizon, with MDOC’s involvement, had failed to contain the outbreak, and Huron Valley prisoners filed a lawsuit that was similar to this one. But the *Pearson* plaintiffs, who sued many of these same defendants, failed to “allege some additional action to hold further-afield officials liable for the medical decisions of medical personnel.” *Id.* at 1039. The *Pearson* court, therefore, concluded that the plaintiffs had failed to sufficiently plead that the MDOC defendants—who were relying on Corizon—were themselves deliberately indifferent. *See id.* at 1043–44. But here, the problem afflicting plaintiffs is caused by an aspect of the Huron Valley facility itself, not an outbreak within it. And MDOC is not relying on an outside contractor to remedy the problem. This is MDOC’s own building. The five defendants in question share a direct, not outsourced, responsibility for it.

The plaintiffs' complaint must provide a factual basis to show that the named defendants “(1) knew about facts from which they could infer that a substantial risk existed, (2) drew that inference, and (3) disregarded the risk.” *Finley v. Huss*, 102 F.4th 789, 805 (6th Cir. 2024) (citation omitted); *see* Maj. Op. at 8. It has done so.

Each individual defendant's regular practices and responsibilities as administrative officials were enumerated in the complaint. From that factual basis alone, one can plausibly infer that each of them was “actually aware” of the “readily visible” mold problem, that they “received numerous complaints about mold” in one way or another, “actually observed” the mold, and “direct[ed]” personnel “to conceal it.” Second Amended Complaint, ¶¶ 142, 307.

The complaint, moreover, alleges upon information and belief that each of these five defendants read the annual physical-plant reports about Huron Valley, “which detailed the significant infrastructural deficiencies” there. *Id.* ¶¶ 433, 443, 453, 464, 473. Those findings are included in the complaint. *See id.* ¶¶ 5, 58, 60–71, 86–89, 110–114. As alleged, the reports explicitly drew the required inference for the defendants by explaining that repairs were needed to “prevent personal injury” and mitigate a “hazard to inmates.” *Id.* ¶ 86. *See also Smith v. Gen. Motors LLC*, 988 F.3d 873, 885 (6th Cir. 2021) (quoting *Sanderson v. HCA-The Healthcare Co.*, 447 F.3d 873, 878 (6th Cir. 2006)) (noting that “complaints grounding claims on ‘information and belief’ can survive a motion to dismiss” so long as they “set forth a factual basis for such belief”).

Finally, the complaint alleges that these defendants each supervised subordinates who were directly involved in addressing the mold problem at Huron Valley:

- “Defendant McKee supervises many MDOC employees including Jackson Region Assistant Deputy Director Bush, who, in turn, supervises the WHV Warden.” Second Amended Complaint, ¶ 276.
- “The Warden of WHV reports to Defendant Bush.” *Id.* ¶ 279.
- “Defendant Gulick supervises many MDOC employees, including the Physical Plant Division Administrator, Defendant Vallad.” *Id.* ¶ 285.
- “Defendant Vallad supervises many MDOC employees, including, upon information and belief, Physical Plant Superintendent Bullard.” *Id.* ¶ 290.

- “As State Administrative Manager, Defendant Moore oversees the administration of Michigan’s correctional system, including WHV, and serves as Bullard’s supervisor.” *Id.* ¶ 291.

The above allegations detailing these defendants’ responsibilities, including their supervision of subordinates, support the reasonable inference that they knew of and participated in alleged constitutional violations at the prison. *See Venema v. West*, 133 F.4th 625, 635 (6th Cir. 2025) (explaining that allegations that the defendant “had sweeping control over [a prison] and was effectively solely responsible for [prison] policy . . . provide additional support for [the] conclusion that [the defendant] at least knowingly acquiesced in [her subordinates’] unconstitutional conduct”); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”).

Determining plausibility is “a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Iqbal*, 556 U.S. at 679. Here, the context is that multiple supervisors, each in a position of responsibility regarding the facilities at Huron Valley, are alleged to have each neglected a shared duty. At this stage, one cannot reasonably expect plaintiffs to muster an array of unique, specific factual allegations when the case turns on each defendant’s alleged failure to have acted—an omission that applies to all of them.

Requiring plaintiffs to provide even more “detailed factual allegations” than these would effectively impose on them a heightened pleading standard, which the Supreme Court has clearly rejected. *See id.* at 678. This is particularly true given the “information deficit” at issue here. *See Palnik v. Westlake Entm’t, Inc.*, 344 F. App’x 249, 252 (6th Cir. 2009). The vast majority of the evidence concerning these five defendants’ personal involvement in the prison’s mold and airflow problems—including what they knew and what they instructed their subordinates to do in response—is “peculiarly within the possession of” these defendants. *See In re Darvocet, Darvon, & Propoxyphene Prods. Liab. Litig.*, 756 F.3d 917, 931 (6th Cir. 2014) (quoting *Arista Records, LLC v. Doe 3*, 604 F.3d 110, 120 (2d Cir. 2010)); *Farmer v. Brennan*, 511 U.S. 825, 842 (1994).

Dismissing these five defendants before plaintiffs have had a reasonable opportunity to conduct discovery is therefore unfair. *See Grose v. Caruso*, 284 F. App'x 279, 283 (6th Cir. 2008) (declining to require the plaintiff to provide “more detailed facts” or identify specific evidence to support her claims because she “ha[d] not yet had an opportunity to initiate discovery in order to develop a factual record upon which a court may then determine whether dismissal based on qualified immunity is proper”). Premature dismissal will also likely lead to inefficient litigation: if discovery later reveals that these defendants were in fact personally involved, plaintiffs will need to move to add them back into the case, which will waste further time and judicial resources.

Finally, to the extent that the majority is concerned that plaintiffs’ allegations as to these five defendants are made “in gross” because similar allegations are made against all five, Maj. Op. at 10, this court has rejected such an argument in *Phillips v. Roane County*, 534 F.3d 531 (6th Cir. 2008). There, the court first “recognized that ‘[t]he subjective component [of a deliberate-indifference claim] must be addressed for each officer individually.’” *Id.* at 542 (quoting *Garretson v. City of Madison Heights*, 407 F.3d 789, 797 (6th Cir. 2005) (alterations in original)). But it then declined to “read *Garretson* as prescribing a rule that plaintiffs cannot present general allegations to prove that each individual defendant has the requisite knowledge for deliberate indifference.” *Id.* The court therefore denied summary judgment in favor of a group of corrections officers where the plaintiff alleged “(1) that each individual officer knew of [the decedent’s] collapse on November 24 and her subsequent complaints of other symptoms, (2) that her deteriorating physical condition two weeks prior to her death was so obvious that no reasonable officer working at the jail could have seen her and not disregarded that risk, and (3) that each individual officer had clear instructions to transport an inmate with such symptoms to an emergency room, but none did so.” *Id.*

I believe that the same reasoning applies here. The complaint alleges sufficient facts establishing knowledge, failure to act, and concealment by each individual defendant to survive the motion to dismiss. Plaintiffs’ allegations therefore do not constitute impermissible general or group pleading. I therefore respectfully dissent with regard to the dismissal of the five defendants in question.