

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION

Michael Gresham v. Michael Taylor, et al.

Gresham v. Taylor · No. 1:23-CV-1053 · Decided March 18, 2026

SUMMARY

The United States District Court for the Western District of Michigan approved and adopted the magistrate judge’s report and recommendation, granted Defendant Michael Taylor’s motion for summary judgment, and denied Plaintiff Michael Gresham’s motion for a temporary restraining order. The court held that Gresham’s complaint was not properly verified under 28 U.S.C. § 1746 and therefore could not be treated as admissible summary-judgment evidence. The court concluded that the admissible record did not establish a triable issue on Gresham’s First Amendment retaliation or Eighth Amendment claims.

CASE DETAILS

COURT	United States District Court for the Western District of Michigan, Southern Division
WRITING FOR THE COURT	Robert J. Jonker
JURISDICTION	United States District Court for the Western District of Michigan, Southern Division
DECIDED	March 18, 2026
DOCKET	1:23-CV-1053
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed de novo a magistrate judge's report and recommendation after Plaintiff objected. The court approved and adopted the report and recommendation, granted Defendant Taylor's motion for summary judgment, and denied Plaintiff's motion for a temporary restraining order.
STANDARD OF REVIEW	The district court conducted de novo review of the portions of the magistrate judge's disposition to which Plaintiff objected under Federal Rule of Civil Procedure 72(b)(3). For summary judgment, the court considered whether admissible record evidence, viewed with all reasonable inferences in Plaintiff's favor, created a triable issue of fact.
PRECEDENTIAL VALUE	Unknown

PARTIES

Michael Gresham v. Michael Taylor, et al.

TOPICS

summary judgment

prisoners rights

section 1983

evidence

civil procedure

PRACTICE AREAS

prisoner civil rights

constitutional law

federal civil procedure

summary judgment

QUESTIONS PRESENTED

1. Whether Plaintiff's complaint qualified as a verified complaint or admissible declaration under 28 U.S.C. § 1746 and could be considered as evidence opposing summary judgment.
2. Whether the admissible summary-judgment record created a triable issue on Plaintiff's First Amendment retaliation claim.
3. Whether the admissible summary-judgment record created a triable issue on Plaintiff's Eighth Amendment claim arising from the alleged shower assault and foot wound.
4. Whether Plaintiff was entitled to a temporary restraining order.

HOLDINGS

1. A complaint is not a verified complaint admissible as summary-judgment evidence unless its unsworn declaration substantially complies with 28 U.S.C. § 1746, including a statement that the contents are made under penalty of perjury. Plaintiff's statement that he declared that everything was true "without perjury" did not satisfy that requirement.
2. The admissible evidence did not create a triable issue that Defendant Taylor retaliated against Plaintiff for filing grievances or lawsuits. Summary judgment was therefore proper on the retaliation claim.
3. The admissible evidence did not create a triable issue that Defendant Taylor caused or maliciously and sadistically inflicted unconstitutional harm on Plaintiff. Summary judgment was therefore proper on the Eighth Amendment claim.
4. Plaintiff's motion for a temporary restraining order was denied.

KEY QUOTATIONS

"The phrase does not sufficiently acknowledge the separate component that the statements are made under penalty of perjury, and thus Plaintiff's Complaint does not qualify as a "verified" complaint for purposes of summary judgment." (5)

"This dooms his retaliation and Eighth Amendment claims." (7)

FACTUAL BACKGROUND

Plaintiff, a Michigan prisoner, alleged that Defendant Taylor searched his cell, removed books and legal papers, labeled him a snitch, and arranged for another prisoner to assault him in retaliation for grievances and lawsuits.

Taylor admitted entering the cell but stated that he retrieved and returned a book belonging to another prisoner and denied taking Plaintiff's property, arranging an assault, or making retaliatory statements. Video showed Taylor entering and leaving the cell with one book, and the summary-judgment record contained no medical treatment record for Plaintiff's alleged foot wound.

PROCEDURAL HISTORY

Plaintiff brought prisoner civil-rights claims alleging First Amendment retaliation and an Eighth Amendment violation arising from a cell search, alleged loss of property, and a later shower assault. The magistrate judge recommended denying Plaintiff's motion for a temporary restraining order and granting Defendant's motion for summary judgment. After reviewing the objections, evidence, report and recommendation, and response de novo, the district court adopted the recommendation and entered judgment for Defendant.

DISPOSITION

other

CASES CITED

- Hill v. Duriron Co., 656 F.2d 1208, 1215 (6th Cir. 1981)
- Rogers v. Lilly, 292 F. App'x 423, 428 n.3 (6th Cir. 2008)
- Tullis v. UMB Bank, N.A., 423 F. App'x 567, 570 (6th Cir. 2011)
- Trapaga v. Central States Joint Board Local 10, 2007 WL 1017855, at *2 (N.D. Ill. Mar. 30, 2007)
- McConnell v. Ritz-Carlton Watertower, 39 F. App'x 417, 420 (7th Cir. June 5, 2002)
- Howell v. New Mexico Department of Aging & Long Term Services, 2010 WL 3965927, at *4 (10th Cir. Oct. 12, 2010)
- American Civil Liberties Union of Kentucky v. Grayson County, 591 F.3d 837, 844 n.2 (6th Cir. 2010)
- Milczak v. General Motors, LLC, 102 F.4th 772, 781 (6th Cir. 2024)
- Mllczak v. General Motors, LLC, No. 23-1462, 2024 WL 3205990 (6th Cir. June 17, 2024)
- Cordell v. McKinney, 759 F.3d 573, 580 (6th Cir. 2014)
- Santiago v. Ringle, 734 F.3d 585, 590 (6th Cir. 2013)
- Williams v. Curtin, 631 F.3d 380, 383 (6th Cir. 2011)
- Hudson v. McMillian, 503 U.S. 1, 7-8 (1992)