

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND JUDICIAL DEPARTMENT

Iannelli v. County of Nassau

2017 N.Y. Slip Op. 08815 (App. Div. 2d Dep't 2017) · No. 2016-03197 · Decided December 20, 2017

SUMMARY

The Appellate Division, Second Department, affirmed the denial of the defendants' motion for summary judgment in an action arising from a detained plaintiff's suicide attempt by jumping from a police station window. The court held that triable issues remained concerning whether the defendants knew or should have known of the plaintiff's risk of self-harm and whether they provided adequate supervision and medical care. Triable issues also remained regarding assault and battery, civil rights violations under 42 USC § 1983, and loss of consortium.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
WRITING FOR THE COURT	William F. Mastro, J.P.; L. Priscilla Hall, J.; Robert J. Miller, J.; Valerie Brathwaite Nelson, J.
JURISDICTION	New York
DECIDED	December 20, 2017
DOCKET	2016-03197
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from an order denying their motion for summary judgment dismissing an action alleging negligence, assault and battery, 42 U.S.C. § 1983 violations, and loss of consortium.
STANDARD OF REVIEW	On a motion for summary judgment, the movant bears the initial burden of establishing entitlement to judgment as a matter of law and eliminating all triable issues of fact. If the movant fails to meet that burden, the sufficiency of the opposing papers need not be considered.
PRECEDENTIAL VALUE	published appellate decision
PARTIES	County of Nassau, Nassau County Police Department v. Carol Iannelli, Louis Iannelli

TOPICS

summary judgment

duty of care

negligence

standard of care

civil rights

PRACTICE AREAS

torts

civil rights

municipal law

civil procedure

QUESTIONS PRESENTED

1. Whether the defendants were entitled to summary judgment on the ground that Carol Iannelli's suicide attempt was not reasonably foreseeable.
2. Whether the defendants eliminated triable issues of fact concerning negligent supervision and failure to protect a detainee from self-inflicted harm.
3. Whether the defendants eliminated triable issues of fact concerning alleged deprivation of adequate medical care under 42 U.S.C. § 1983, assault and battery, and Louis Iannelli's loss-of-consortium claim.

HOLDINGS

1. A county owes a duty of care to protect its prisoners from self-inflicted harm, but it is not an insurer of prisoner safety; liability depends on whether the risk of harm was reasonably foreseeable because the county knew or should have known of it.
2. The defendants were not entitled to summary judgment because their submissions failed to eliminate triable issues of fact as to whether they knew or should have known that Carol Iannelli posed a risk of harm to herself and whether they failed to provide adequate supervision to prevent reasonably foreseeable harm.
3. The defendants failed to eliminate triable issues of fact concerning the alleged violation of 42 U.S.C. § 1983, assault and battery, and the loss-of-consortium claim.

KEY QUOTATIONS

*“However, the County is not an insurer of prisoner safety and negligence cannot be inferred merely because an incident occurred” (*1)*

*“Rather, the County's duty is limited to providing reasonable care to protect prisoners from risks of harm that are reasonably foreseeable, i.e., those that the County knew or should have known” (*1)*

*“Since the defendants failed to meet their initial burden, the Supreme Court properly denied their motion for summary judgment dismissing the complaint, regardless of the sufficiency of the papers submitted in opposition” (*2)*

FACTUAL BACKGROUND

Carol Iannelli was detained in a second-floor holding cell at a Nassau County police station after her arrest. Evidence indicated that her husband told a detective she had recently been hospitalized following a suicide attempt, that she told a detective she needed prescription medication, and that she reported anxiety, claustrophobia, and a recent hospitalization. After approximately 40 minutes of crying and begging for the cell door to be opened, she escaped the cell, ran to an open window, and jumped, sustaining injuries.

PROCEDURAL HISTORY

Carol Iannelli and her husband commenced the action after Carol, while detained at a Nassau County police station, jumped from a second-floor window in an attempt to commit suicide. The Supreme Court, Nassau County, denied the defendants' motion for summary judgment. The Appellate Division affirmed, concluding that the defendants failed to eliminate triable issues of fact.

DISPOSITION

affirmed

CASES CITED

- Gordon v. City of New York, 70 N.Y.2d 839, 840
- O'Grady v. City of Fulton, 4 N.Y.2d 717
- Sanchez v. State of New York, 99 N.Y.2d 247, 253-256
- Barnette v. City of New York, 96 A.D.3d 700, 701
- Smith v. County of Albany, 12 A.D.3d 912, 913
- Wilson v. Sponable, 81 A.D.2d 1, 7
- Matter of Bezio v. Dorsey, 21 N.Y.3d 93, 104-105
- Palsgraf v. Long Island R.R. Co., 248 N.Y. 339, 344
- Brown v. City of New York, 95 A.D.3d 1051, 1052
- Serpa v. County of Nassau, 280 A.D.2d 596
- Colon v. State of New York, 209 A.D.2d 842, 843
- Blake v. State of New York, 259 A.D.2d 878
- Andrews v. County of Cayuga, 142 A.D.3d 1347, 1349
- Holland v. City of Poughkeepsie, 90 A.D.3d 841, 846
- Millington v. Southeastern El. Co., 22 N.Y.2d 498, 502
- Rakich v. Lawes, 186 A.D.2d 932, 934-935
- Briggs v. Butterfield Mem. Hosp., 104 A.D.2d 626
- Winegrad v. New York Univ. Med. Ctr., 64 N.Y.2d 851, 853
- Stukas v. Streiter, 83 A.D.3d 18, 24-25

OPINION

PER CURIAM.

Iannelli v County of Nassau (2017 NY Slip Op 08815) Iannelli v County of Nassau 2017 NY Slip Op 08815 Decided on December 20, 2017 Appellate Division, Second Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports. Decided on

December 20, 2017 SUPREME COURT OF THE STATE OF NEW YORK Appellate Division,
Second Judicial Department WILLIAM F. MASTRO, J.P.

L. PRISCILLA HALL ROBERT J. MILLER VALERIE BRATHWAITE NELSON, JJ. 2016-03197 (Index No. 600/13) [*1]Carol Iannelli, et al., respondents, vCounty of Nassau, et al., appellants. Carnell T. Foskey, County Attorney, Mineola, NY (Robert F. Van der Waag of counsel), for appellants. Buttafuoco & Associates, PLLC, Woodbury, NY (Ellen Buchholz and Jin Kim of counsel), for respondents.

DECISION & ORDER In an action, inter alia, to recover damages for personal injuries, etc., the defendants appeal from an order of the Supreme Court, Nassau County (Feinman, J.), dated March 7, 2016, which denied their motion for summary judgment dismissing the complaint. ORDERED that the order is affirmed, with costs.

The injured plaintiff, and her husband suing derivatively, commenced this action against the County of Nassau and the Nassau County Police Department (hereinafter together the defendants), inter alia, to recover damages for personal injuries after the injured plaintiff, while detained at the Seventh Precinct station house, jumped out of the second floor window in an attempt to commit suicide.

The complaint alleged causes of action to recover damages for negligence, assault and battery, civil rights violations pursuant to 42 USC § 1983, and loss of consortium. The defendants moved for summary judgment dismissing the complaint on the ground that they had no knowledge of the injured plaintiff's risk of suicide.

The Supreme Court denied the motion, and the defendants appeal. The Supreme Court properly denied the defendants' motion. The County owes a duty of care to protect its prisoners, even from self-inflicted harm (see *Gordon v City of New York*, 70 NY2d 839, 840; see generally *O'Grady v City of Fulton*, 4 NY2d 717).

However, the County is not an insurer of prisoner safety and negligence cannot be inferred merely because an incident occurred (see *Sanchez v State of New York*, 99 NY2d 247, 256; *Barnette v City of New York*, 96 AD3d 700, 701; *Smith v County of Albany*, 12 AD3d 912, 913; *Wilson v Sponable*, 81 AD2d 1, 7). Rather, the County's duty is limited to providing reasonable care to protect prisoners from risks of harm that are reasonably foreseeable, i.e., those that the County knew or should have known (see *Matter of Bezio v Dorsey*, 21 NY3d 93, 104-105; *Sanchez v State of New York*, 99 NY2d at 253, 255; see generally *Palsgraf v Long Is.*

R.R. Co., 248 NY 339, 344). Here, the defendants, as the parties seeking summary judgment, bore the burden of [*2]establishing that the injured plaintiff's attempt to commit suicide was not foreseeable (see *Sanchez v State of New York*, 99 NY2d at 254-255; *Brown v City of New York*,

95 AD3d 1051, 1052; *Smith v County of Albany*, 12 AD3d 912, 913; *Serpa v County of Nassau*, 280 AD2d 596; see generally *Stukas v Streiter*, 83 AD3d 18, 24-25).

Both the injured plaintiff and her husband, Louis Iannelli (hereinafter Mr. Iannelli), testified at their respective depositions and the General Municipal Law § 50-h hearings that Mr. Iannelli told one of the detectives at the time of the injured plaintiff's arrest that the injured plaintiff had been hospitalized recently for attempted suicide.

The plaintiffs also both testified that the injured plaintiff told another detective that she needed her prescription medication but the detective would not permit her to bring it to the station house. The injured plaintiff testified that while she was being placed by the arresting detectives in a second floor holding cell at the station house, she told the detectives that she suffered from claustrophobia and anxiety and had just gotten out of the hospital.

During the 40-minute period she was in the holding cell, she was crying and begging for someone to open the cell door. Someone unlocked the cell door. She was able to wiggle her hands out of the handcuffs and push the door open. She ran to an open window directly across from the cell door and jumped out.

The injured plaintiff further testified that as she lay injured on the ground, some unidentified police officers kicked her in the back and accused her of trying to escape. The defendants' submissions failed to eliminate triable issues of fact as to whether the defendants knew or should have known that the injured plaintiff posed a risk of harm to herself and whether the defendants "failed to use adequate supervision to prevent that which was reasonably foreseeable" (*Colon v State of New York*, 209 AD2d 842, 843; see *Sanchez v State of New York*, 99 NY2d 247; *Serpa v County of Nassau*, 280 AD2d 596; *Blake v State of New York*, 259 AD2d 878).

Moreover, the defendants' submissions failed to eliminate triable issues of fact as to whether they violated 42 USC § 1983 by depriving the injured plaintiff of her Fourteenth Amendment right to adequate medical care (see *Andrews v County of Cayuga*, 142 AD3d 1347, 1349), whether they committed assault and battery (see *Holland v City of Poughkeepsie*, 90 AD3d 841, 846), and Mr. Iannelli's claim for loss of consortium (see *Millington v Southeastern El.*

Co., 22 NY2d 498, 502; *Rakich v Lawes*, 186 AD2d 932, 934-935; cf. *Briggs v Butterfield Mem. Hosp.*, 104 AD2d 626). Since the defendants failed to meet their initial burden, the Supreme Court properly denied their motion for summary judgment dismissing the complaint, regardless of the sufficiency of the papers submitted in opposition (see *Winegrad v New York Univ.*

Med. Ctr., 64 NY2d 851, 853; *Brown v City of New York*, 95 AD3d at 1052). The defendants' remaining contention is without merit. MASTRO, J.P., HALL, MILLER and BRATHWAITE NELSON, JJ., concur. ENTER: Aprilanne Agostino Clerk of the Court

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