

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

Corey Askew v. County of Berrien, et al.

Askew · No. 1:24-cv-1010 · Decided January 27, 2026

SUMMARY

This Report and Recommendation addresses Defendants’ motion for summary judgment in a prisoner civil-rights action arising from a pretrial detainee’s refusal to submit to photographing and fingerprinting at the Berrien County Jail. The magistrate judge recommends granting summary judgment on identified conditions-of-confinement, excessive-force, supervisory-liability, and policy-implementation claims, while dismissing other claims for failure to state a claim or failure to timely effect service. The recommendation was issued on January 27, 2026, and advises that any appeal would not be taken in good faith.

CASE DETAILS

COURT	United States District Court for the Western District of Michigan, Southern Division
WRITING FOR THE COURT	Phillip J. Green
JURISDICTION	United States District Court for the Western District of Michigan, Southern Division
DECIDED	January 27, 2026
DOCKET	1:24-cv-1010
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation on defendants' motion for summary judgment in a prisoner civil-rights action brought by a former pretrial detainee under the Fourth and Fourteenth Amendments.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 56(a), summary judgment is appropriate when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views evidence in the light most favorable to the nonmovant, but the nonmovant must identify significant probative evidence establishing a genuine issue for trial. Pleading sufficiency is assessed under the plausibility standard of Rules 8 and 12(b)(6).
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Corey Askew v. County of Berrien, Paul Bailey, Cory Burkes, Celina Herbert, Nicholas Margo, Scott Kuhl, Erin Kuhl, J. Will, Cody Phillips, Unknown Dipert, Unknown Helfman, Unknown Hyun, J. Tarnowski, Unknown Parties #1, #2, #4, and #5 through #15

TOPICS

summary judgment

section 1983

prisoners rights

fourteenth amendment

civil procedure

PRACTICE AREAS

civil rights

constitutional law

civil procedure

prisoner litigation

summary judgment

QUESTIONS PRESENTED

1. Whether Askew's Fourth Amendment surveillance, bodily-function, strip-search, and anal-cavity-search claims could proceed when he failed to identify the individual defendants allegedly responsible.
2. Whether the conditions of confinement alleged by Askew violated the Fourteenth Amendment rights of a pretrial detainee.
3. Whether the force used while officials attempted to photograph and fingerprint Askew was excessive under the circumstances shown by the video evidence.
4. Whether Askew established municipal liability or supervisory liability against Berrien County and the supervisory defendants.
5. Whether claims against unidentified defendants should be dismissed for failure to timely effect service under Federal Rule of Civil Procedure 4(m).

HOLDINGS

1. A plaintiff must allege personal involvement by the individual defendants claimed to have violated constitutional rights. Askew's failure to identify any individual involved in the alleged surveillance and searches warranted dismissal of those claims for failure to state a claim.
2. For a pretrial detainee's conditions-of-confinement claim, the detainee must show that the defendant acted deliberately and recklessly in the face of an unjustifiably high risk of harm, or that the condition was punitive rather than rationally related to a legitimate governmental objective or was excessive in relation to that objective. The challenged short-term restrictions were reasonable responses to Askew's refusal to complete booking and disruptive conduct and did not establish a constitutional violation.
3. Summary judgment was warranted for the officials involved in attempting to photograph and fingerprint Askew because the video evidence showed only minimal force used in response to Askew's active resistance and no genuine dispute requiring trial.
4. Berrien County and the supervisory defendants were entitled to summary judgment because Askew presented no evidence that a municipal policy caused his injury, that supervisors encouraged or directly participated in specific misconduct, or that they implicitly authorized, approved, or knowingly acquiesced in unconstitutional conduct.

5. Claims against the unidentified defendants should be dismissed without prejudice for failure to timely effect service under Federal Rule of Civil Procedure 4(m), where Askew failed to identify and provide information permitting service within the applicable period.

KEY QUOTATIONS

“A plaintiff need only show that the defendant acted with recklessness, described as “more than negligence but less than subjective intent – something akin to reckless disregard.”” (7)

“When 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 facts for purposes of ruling on a motion for summary judgment.” (14)

“Official municipal policy includes “the decisions of a government’s lawmakers, the acts of its policymaking officials, and practices so persistent and widespread as to practically have the force of law.”” (15)

FACTUAL BACKGROUND

Askew was held as a pretrial detainee at the Berrien County Jail after his arrest and repeatedly refused to permit jail officials to photograph him and record his fingerprints. He alleged that jail officials subjected him to intrusive surveillance and searches, denied him bedding and hygiene items, restricted toilet paper, and used excessive force while attempting to photograph and fingerprint him. Defendants submitted affidavits and a video recording showing that Askew resisted attempts to position him for photographing and fingerprinting and that officials used what the magistrate judge characterized as minimal force before discontinuing the efforts.

PROCEDURAL HISTORY

Askew filed suit against Berrien County and multiple county-jail officials and employees based on alleged surveillance, searches, conditions of confinement, excessive force, supervisory liability, and municipal-policy violations. Most claims were dismissed during screening, leaving Fourth and Fourteenth Amendment claims for monetary damages. Defendants moved for summary judgment, and the magistrate judge recommended that the motion be granted in part, denied without prejudice in part, and that the remaining claims be dismissed or otherwise terminated as specified in the recommendations.

DISPOSITION

other

CASES CITED

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 545, 678-79 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 677-79 (2009)
- Harden v. Hillman, 993 F.3d 465, 474 (6th Cir. 2021)
- Minadeo v. ICI Paints, 398 F.3d 751, 761 (6th Cir. 2005)
- Amini v. Oberlin College, 440 F.3d 350, 357 (6th Cir. 2006)
- Daniels v. Woodside, 396 F.3d 730, 734-35 (6th Cir. 2005)

- Pack v. Damon Corp., 434 F.3d 810, 813-14 (6th Cir. 2006)
- Fogerty v. MGM Group Holdings Corp., Inc., 379 F.3d 348, 353-54 (6th Cir. 2004)
- Pineda v. Hamilton County, Ohio, 977 F.3d 483, 490, 492-93 (6th Cir. 2020)
- Mercer v. Athens County, Ohio, 72 F.4th 152, 161 (6th Cir. 2023)
- Greene v. Crawford County, Michigan, 22 F.4th 593, 606 (6th Cir. 2022)
- Passarelli v. Stephenson, 2023 WL 7144571, at *4-5 (W.D. Mich. Oct. 31, 2023)
- J.H. v. Williamson County, Tennessee, 951 F.3d 709, 717 (6th Cir. 2020)
- Cox v. Nord, 2023 WL 6276198, at *6 (S.D. Ohio Sept. 26, 2023)
- Griffin v. Womack, 2013 WL 28669, at *4 (W.D. Ky. Jan. 2, 2013)
- Vandevelde v. Monroe County Jail, 2025 WL 360649, at *2-3 (E.D. Mich. Jan. 31, 2025)
- Scott v. Harris, 550 U.S. 372, 380-81 (2007)
- Connick v. Thompson, 563 U.S. 51, 60-61 (2011)
- Peatross v. City of Memphis, 818 F.3d 233, 242 (6th Cir. 2016)
- Eden v. Keinath, 2022 WL 2812515, at *3 (E.D. Mich. July 18, 2022), vacated, 2022 WL 22945664 (E.D. Mich. Oct. 14, 2022)
- Abel v. Harp, 122 F. App'x 248, 250 (6th Cir. Feb. 16, 2005)
- Coppedge v. United States, 369 U.S. 438, 445 (1962)
- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. Walters, 638 F.2d 947 (6th Cir. 1981)