

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
ARKANSAS, DELTA DIVISION

Cheezy Pulliam v. Earnest Chad Rash

Pulliam · No. 2:24-CV-00148-BSM · Decided January 16, 2026

SUMMARY

The United States District Court for the Eastern District of Arkansas denied defendant Earnest Chad Rash’s motion for summary judgment on plaintiff Cheezy Pulliam’s individual-capacity claims, except for the outrage claim, and granted summary judgment on all official-capacity claims. The court held that genuine factual disputes remained regarding whether Rash kicked Pulliam in the head while he was handcuffed, but found insufficient evidence of municipal ratification or a widespread unconstitutional custom.

CASE DETAILS

COURT	United States District Court for the Eastern District of Arkansas, Delta Division
JURISDICTION	United States District Court for the Eastern District of Arkansas, Delta Division
DECIDED	January 16, 2026
DOCKET	2:24-CV-00148-BSM
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment on plaintiff's individual- and official-capacity claims arising from an alleged police kick to plaintiff's head while plaintiff was handcuffed on the ground.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. The court views reasonable inferences in favor of the nonmoving party, does not weigh evidence, and does not make credibility determinations.
PRECEDENTIAL VALUE	unpublished district-court opinion; nonprecedential

TOPICS

- summary judgment
- section 1983
- qualified immunity
- municipal liability
- police misconduct

PRACTICE AREAS

civil rights

constitutional law

civil procedure

torts

municipal law

QUESTIONS PRESENTED

1. Whether a genuine dispute of material fact existed as to whether Rash used excessive force by kicking Pulliam in the head while Pulliam was handcuffed on the ground.
2. Whether Rash was entitled to qualified immunity on the individual-capacity excessive-force claim.
3. Whether summary judgment was proper on Pulliam's assault and battery claims.
4. Whether summary judgment was proper on Pulliam's Civil Action by a Crime Victim Act claim.
5. Whether Pulliam waived his outrage claim by failing to argue it in response to summary judgment.
6. Whether Pulliam presented sufficient evidence of municipal policy, custom, ratification, notice, and causation to support official-capacity liability.

HOLDINGS

1. Summary judgment was denied because the video and other evidence created a genuine dispute of material fact as to whether Rash kicked Pulliam in the head while Pulliam was lying on the ground in handcuffs. A reasonable jury could find that such force was objectively unreasonable under the Fourth Amendment, and Arkansas Civil Rights Act excessive-force claims are analyzed identically to § 1983 claims.
2. Rash was not entitled to qualified immunity at the summary-judgment stage because, if he kicked Pulliam in the head while Pulliam was lying on the ground in handcuffs, that conduct violated a clearly established constitutional right.
3. Summary judgment was denied on Pulliam's assault and battery claims because a reasonable juror could find that Rash intentionally kicked Pulliam and intended to cause harmful contact.
4. Summary judgment was denied because whether kicking a person in the head creates a substantial danger of death or serious physical injury, as required for aggravated assault-based liability, was a question for the jury.
5. Summary judgment was granted on the outrage claim because Pulliam waived the claim by maintaining it in his response without making any argument concerning it.
6. Summary judgment was granted on the official-capacity ratification theory because the mayor was not shown to be the final policymaker for the police department and, in any event, did not specifically approve or ratify Rash's alleged conduct.
7. Summary judgment was granted because Pulliam failed as a matter of law to show a continuing and widespread pattern of similar unconstitutional misconduct, notice or tacit authorization by municipal policymakers, and causation between any custom and his injury.

KEY QUOTATIONS

“Kicking a detainee in the head while he is lying on the ground in handcuffs violates the Fourth Amendment.”
(3)

“Summary judgment is appropriate when there is no genuine dispute as to any material fact, and the moving party is entitled to judgment as a matter of law.” (2)

FACTUAL BACKGROUND

West Memphis police pursued Pulliam after he fled a traffic stop, and Pulliam was ultimately arrested and handcuffed on the ground. Pulliam testified that Rash kicked him in the head while he was restrained, while Rash maintained that he had tripped and fallen. A video created a genuine factual dispute about whether Rash kicked Pulliam. After the video became public, the police department investigated, concluded that Rash deliberately violated department policy, and terminated him, but the mayor reinstated him with a ten-day suspension and anger-management requirement.

PROCEDURAL HISTORY

Pulliam sued Earnest Chad Rash under 42 U.S.C. § 1983, the Arkansas Civil Rights Act, and Arkansas tort and crime-victim statutes. Rash moved for summary judgment on all claims. The court denied summary judgment on the individual-capacity claims except outrage and granted summary judgment on all official-capacity claims.

DISPOSITION

other

CASES CITED

- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249-50 (1986)
- Holden v. Hirner, 663 F.3d 336, 340 (8th Cir. 2011)
- Holland v. Sam's Club, 487 F.3d 641, 643 (8th Cir. 2007)
- Jenkins v. Winter, 540 F.3d 742, 750 (8th Cir. 2008)
- Nieters v. Holtan, 83 F.4th 1099, 1108-09 (8th Cir. 2023), cert. denied, 144 S. Ct. 1349 (2024)
- Graham v. Cawthorn, 427 S.W.3d 34, 44-45 (Ark. 2013)
- Westwater v. Church, 60 F.4th 1124, 1129 (8th Cir. 2023)
- Kelsay v. Ernst, 933 F.3d 975, 979 (8th Cir. 2019)
- Chambers v. Pennycook, 641 F.3d 898, 907 (8th Cir. 2011)
- Smith v. Kansas City, Missouri Police Department, 586 F.3d 576, 582 (8th Cir. 2009)
- Lambert v. City of Dumas, 187 F.3d 931, 936 (8th Cir. 1999)
- Robinson v. Hawkins, 937 F.3d 1128, 1136 (8th Cir. 2019)
- Mann v. Pierce, 505 S.W.3d 150, 154 (Ark. 2016)
- J.N.A. v. State, 532 S.W.3d 582, 589 (Ark. Ct. App. 2017)
- Satcher v. University of Arkansas at Pine Bluff Board of Trustees, 558 F.3d 731, 735 (8th Cir. 2009)
- Johnson v. Outboard Marine Corp., 172 F.3d 531, 535 (8th Cir. 1999)

- Monell v. Department of Social Services of City of New York, 436 U.S. 658, 690-91 (1978)
- Pembaur v. City of Cincinnati, 475 U.S. 469, 481-82 (1986)
- Brinkley v. City of Helena-West Helena, Arkansas, No. 2:11-CV-00207-SWW, 2014 WL 4164614, at *3 (E.D. Ark. Aug. 21, 2014)
- Soltesz v. Rushmore Plaza Civic Center, 847 F.3d 941, 947 (8th Cir. 2017)
- Ware v. Jackson County, Missouri, 150 F.3d 873, 880 (8th Cir. 1998)
- Mettler v. Whitledge, 165 F.3d 1197, 1205 (8th Cir. 1999)
- City of Oklahoma City v. Tuttle, 471 U.S. 808, 823-24 (1985)
- Rogers v. City of Little Rock, Arkansas, 152 F.3d 790, 799 (8th Cir. 1998)
- Walton v. Dawson, 752 F.3d 1109, 1122 (8th Cir. 2014)
- Szabla v. City of Brooklyn Park, Minnesota, 486 F.3d 385, 392-93 (8th Cir. 2007)

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