

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Suzanne H. Wooten v. John Roach, Sr., Christopher Milner, Greg Abbott, and Harry Eugene White

No. 19-40315, United States Court of Appeals for the Fifth Circuit (July 6, 2020)

SUMMARY

In this § 1983 civil rights action, the Fifth Circuit held that absolute prosecutorial immunity shields a district attorney and state attorney general officials from claims arising from a politically motivated investigation and prosecution, but does not shield a prosecutor who performed investigative functions normally delegated to law enforcement. The court also ruled that a district court lacks jurisdiction to accept an amended complaint after a notice of appeal divests it of control over aspects involved in the appeal, and that it lacks appellate jurisdiction over qualified immunity and certain official immunity claims when the district court did not rule on those issues. The case clarifies the functional analysis for prosecutorial immunity, distinguishing between investigative acts (only qualified immunity) and advocacy acts (absolute immunity), and addresses jurisdictional limits on interlocutory appeals under the collateral order doctrine.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Stuart Kyle Duncan; Rhesa H. Barksdale; Stephen A. Higginson
JURISDICTION	Federal
DECIDED	July 6, 2020
DOCKET	19-40315
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the denial of motions to dismiss based on absolute prosecutorial immunity, qualified immunity, and official immunity.
STANDARD OF REVIEW	We review a district court’s dismissal under Federal Rule of Civil Procedure 12(b)(1) de novo. In determining immunity, we accept as true Wooten’s non-conclusory allegations. We review questions of jurisdiction de novo.
PRECEDENTIAL VALUE	Published
PARTIES	John Roach, Sr., Christopher Milner, Greg Abbott (in his individual capacity), Harry Eugene White v. Suzanne H. Wooten

TOPICS

civil rights

appellate jurisdiction

interlocutory appeal

standard of review

motions to dismiss

subject matter jurisdiction

PRACTICE AREAS

Civil Rights

Civil Procedure

Appellate Procedure

QUESTIONS PRESENTED

1. Whether the district court's acceptance of the second amended complaint after notices of appeal were filed renders the appeal moot.
2. Whether we have jurisdiction to review the district court's denial of qualified immunity and official immunity for Roach and Milner.
3. Whether Defendants are entitled to absolute prosecutorial immunity.

HOLDINGS

1. The district court lacked jurisdiction to accept the second amended complaint because the notices of appeal divested it of jurisdiction, so the first amended complaint remains operative and the appeal is not moot.
2. We lack jurisdiction to review qualified immunity and Roach and Milner's official immunity because the district court did not rule on those issues, and there is no appealable collateral order. We have jurisdiction to review prosecutorial immunity and White and Abbott's official immunity under the collateral order doctrine.
3. Roach, White, and Abbott are entitled to absolute prosecutorial immunity; Milner is not. For Roach, the allegations show he performed administrative or supervisory functions connected to the judicial process, not investigative functions. For White, the allegations do not show he engaged in non-prosecutorial activity; his actions (presenting to grand jury, plea bargaining, opposing motion to quash) are protected. For Abbott, the allegations are insufficient. For Milner, the allegations show he performed investigative functions normally performed by law enforcement, so he is not entitled to absolute immunity.

KEY QUOTATIONS

"We conclude that immunity shields some defendants, but not all." (1)

"The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." (9)

"We hold that Roach, White, and Abbott are each entitled to absolute prosecutorial immunity. Milner, however, is not." (25)

"We lack jurisdiction to consider any Defendant's entitlement to qualified immunity because the district court did not rule on that issue." (25)

FACTUAL BACKGROUND

In March 2008, Wooten defeated Judge Sandoval in the Republican primary for a district court seat. The Collin County District Attorney's Office (CCDAO) began investigating her for bribery, led by Christopher Milner, under the supervision of District Attorney John Roach. The investigation involved multiple grand juries, subpoenas, and intimidation tactics. Milner admitted he lacked probable cause but continued investigating. The Texas Attorney General's office, through Harry White, assisted. After Wooten refused to resign, she was indicted and convicted, but the Texas Court of Criminal Appeals later vacated the conviction for insufficient evidence. Wooten then sued under §1983.

PROCEDURAL HISTORY

Wooten filed a §1983 action against various defendants. The district court denied in part and granted in part the defendants' motions to dismiss, ruling on prosecutorial immunity but deferring ruling on qualified immunity and official immunity. The defendants appealed, and the district court subsequently accepted a second amended complaint. The Fifth Circuit addressed jurisdictional issues and the merits of prosecutorial immunity.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

with instructions to RENDER judgment in favor of Defendants White, Abbott, and Roach. The district court may proceed with the case consistent with this opinion, including accepting, if appropriate, an amended complaint from Wooten.

CASES CITED

- Griggs v. Provident Consumer Disc. Co., 459 U.S. 56 (1982)
- Dayton Indep. Sch. Dist. v. U.S. Mineral Prods. Co., 906 F.2d 1059 (5th Cir. 1990)
- Buckley v. Fitzsimmons, 509 U.S. 259 (1993)
- Imbler v. Pachtman, 424 U.S. 409 (1976)
- Van de Kamp v. Goldstein, 555 U.S. 335 (2009)
- Cousin v. Small, 325 F.3d 627 (5th Cir. 2003)
- Hoog-Watson v. Guadalupe County, 591 F.3d 431 (5th Cir. 2009)
- Burns v. Reed, 500 U.S. 478 (1991)
- Mitchell v. Forsyth, 472 U.S. 511 (1985)
- Backe v. LeBlanc, 691 F.3d 645 (5th Cir. 2012)
- Meza v. Livingston, 537 F.3d 364 (5th Cir. 2008)
- Morrison v. City of Baton Rouge, 761 F.2d 242 (5th Cir. 1985)
- Humble v. Foreman, 563 F.2d 780 (5th Cir. 1977)
- Singleton v. Cannizzaro, 956 F.3d 773 (5th Cir. 2020)

- Williams ex rel. J.E. v. Reeves, 954 F.3d 729 (5th Cir. 2020)
- United States v. Mills, 199 F.3d 184 (5th Cir. 1999)
- Kusay v. United States, 62 F.3d 192 (7th Cir. 1995)
- May v. Sheahan, 226 F.3d 876 (7th Cir. 2000)
- Ramirez v. Martinez, 716 F.3d 369 (5th Cir. 2013)
- Telthorster v. Tennell, 92 S.W.3d 457 (Tex. 2002)
- David Cary v. State, 507 S.W.3d 761 (Tex. Crim. App. 2016)
- Stacy Cary v. State, 507 S.W.3d 750 (Tex. Crim. App. 2016)
- Monell v. Dep't of Soc. Servs., 436 U.S. 658 (1978)
- Loupe v. O'Bannon, 824 F.3d 534 (5th Cir. 2016)
- Cantu v. Rocha, 77 F.3d 795 (5th Cir. 1996)
- In re Deepwater Horizon, 793 F.3d 479 (5th Cir. 2015)
- Texas v. Caremark, Inc., 584 F.3d 655 (5th Cir. 2009)
- Coastal Corp. v. Tex. E. Corp., 869 F.2d 817 (5th Cir. 1989)
- Lion Boulos v. Wilson, 834 F.2d 504 (5th Cir. 1987)
- Helton v. Clements, 787 F.2d 1016 (5th Cir. 1986)
- Sparks v. Duval Cty. Ranch Co., 604 F.2d 976 (5th Cir. 1979)