

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Kylie Didonato v. Tim Panatera

No. No. 20-1692, United States Court of Appeals for the Seventh Circuit (February 3, 2022)

SUMMARY

The Seventh Circuit affirmed dismissal of a § 1983 claim alleging that an off-duty City of Chicago paramedic violated the plaintiff's due process rights by failing to provide adequate medical care and sexually assaulting her after she fell and injured her head in his home. The court held that the plaintiff failed to plead that the paramedic acted "under color of state law" because the conduct occurred in a purely private setting, involved no invocation or misuse of state authority, and mere overlap between his job duties and his private actions is insufficient to establish state action. The court did not reach the "special relationship" analysis under **DeShaney v. Winnebago County Department of Social Services**, as the state-action requirement was dispositive. Key topics: § 1983, state action, under color of state law, off-duty public employees, paramedic, due process, failure to provide medical care.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Scudder; Ripple; Rovner
JURISDICTION	Federal
DECIDED	February 3, 2022
DOCKET	No. 20-1692
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from dismissal of § 1983 claim and denial of supplemental jurisdiction
STANDARD OF REVIEW	de novo
PRECEDENTIAL VALUE	Published
PARTIES	Kylie Didonato v. Tim Panatera

TOPICS

- civil procedure
- motions to dismiss
- civil rights
- due process
- constitutional law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the complaint plausibly alleged that Panatera acted under color of state law for a § 1983 claim.

HOLDINGS

1. The complaint failed to allege that Panatera acted under color of state law because his alleged misconduct was not facilitated by any invocation or misuse of state authority; his actions were those of a private citizen in a purely private social interaction.

KEY QUOTATIONS

“power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.” (5)

“private act that did not involve any exercise of state authority.” (7)

FACTUAL BACKGROUND

Kylie DiDonato slipped and fell in Tim Panatera's home, seriously injuring her head. Panatera, a City of Chicago paramedic, allegedly did not call 911 or take her to the hospital but instead rinsed her head, wrapped it in a towel, and then sexually assaulted her while she was disoriented. She later went to the emergency room and received treatment for head trauma and a concussion.

PROCEDURAL HISTORY

The district court dismissed the § 1983 claim for failure to allege state action and declined to exercise supplemental jurisdiction over state law claims. Plaintiff appealed.

DISPOSITION

affirmed

CASES CITED

- DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189 (1989)
- Estelle v. Gamble, 429 U.S. 97 (1976)
- Yang v. Hardin, 37 F.3d 282 (7th Cir. 1994)
- Wyatt v. Cole, 504 U.S. 158 (1992)
- West v. Atkins, 487 U.S. 42 (1988)
- Gibson v. City of Chicago, 910 F.2d 1510 (7th Cir. 1990)
- Wilson v. Price, 624 F.3d 389 (7th Cir. 2010)
- Briscoe v. LaHue, 663 F.2d 713 (7th Cir. 1981)
- Pickrel v. City of Springfield, 45 F.3d 1115 (7th Cir. 1995)

- *Lopez v. Vanderwater*, 620 F.2d 1229 (7th Cir. 1980)
- *Barnes v. City of Centralia*, 943 F.3d 826 (7th Cir. 2019)
- *Hughes v. Meyer*, 880 F.2d 967 (7th Cir. 1989)
- *Latuszkin v. City of Chicago*, 250 F.3d 502 (7th Cir. 2001)
- *Bilek v. Fed. Ins. Co.*, 8 F.4th 581 (7th Cir. 2021)
- *Luce v. Town of Campbell*, 872 F.3d 512 (7th Cir. 2017)
- *First Midwest Bank v. City of Chicago*, 988 F.3d 978 (7th Cir. 2021)

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