

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, ROANOKE DIVISION

Jimmy Dakota Lee Hess v. SWVRJ-Haysi Facility et al.

Hess · No. 7:25-cv-00576 · Decided January 5, 2026

SUMMARY

The United States District Court for the Western District of Virginia addresses a motion to dismiss claims brought under 42 U.S.C. § 1983 by incarcerated plaintiff Jimmy Dakota Lee Hess. The court permits Hess’s Eighth Amendment excessive-force claim against Sergeant Perrigan and Corporal Rasnick to proceed, but dismisses his verbal sexual-harassment and verbal-threat claims and dismisses the Southwest Virginia Regional Jail-Haysi Facility as a defendant. The court also denies Hess’s requests for transfer to a Virginia Department of Corrections facility.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Roanoke Division
JURISDICTION	United States District Court for the Western District of Virginia, Roanoke Division
DECIDED	January 5, 2026
DOCKET	7:25-cv-00576
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a 42 U.S.C. § 1983 action alleging Eighth Amendment excessive force, sexual harassment, and verbal harassment. Defendants Sergeant Perrigan and Corporal Rasnick moved to dismiss under Rule 12(b)(6). Plaintiff also sought transfer to a Virginia Department of Corrections facility, which the court construed as requests for a preliminary injunction or temporary restraining order.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the legal sufficiency of the complaint, accepts well-pleaded factual allegations as true, draws reasonable inferences in the plaintiff's favor, and determines whether the complaint states a facially plausible claim. Pro se pleadings are construed liberally but must still satisfy the plausibility standard. Requests for preliminary injunctive relief are evaluated under the four Winter factors.

PRECEDENTIAL VALUE	Unpublished district court memorandum opinion and order; persuasive authority only.
PARTIES	Jimmy Dakota Lee Hess v. SWVRJ-Haysi Facility, Sergeant Perrigan, Corporal Rasnick

TOPICS

[prisoners rights](#)
[section 1983](#)
[motions to dismiss](#)
[injunctions](#)
[civil procedure](#)

PRACTICE AREAS

[Prisoner civil rights](#)
[constitutional law](#)
[civil procedure](#)
[injunctive relief](#)

QUESTIONS PRESENTED

1. Whether Hess plausibly alleged an Eighth Amendment excessive force claim despite failing to allege a specific injury.
2. Whether Hess plausibly alleged Eighth Amendment claims based on an isolated sexual comment and subsequent verbal threats or harassment.
3. Whether SWVRJ-Haysi Facility is a suable person under 42 U.S.C. § 1983.
4. Whether Hess was entitled to preliminary injunctive or temporary restraining relief requiring transfer to a Virginia Department of Corrections facility.

HOLDINGS

1. Hess plausibly alleged an Eighth Amendment excessive force claim, and the absence of a specifically alleged injury did not require dismissal at the pleading stage.
2. Hess's claim based on a single verbal sexual comment did not state a plausible claim for relief and was dismissed.
3. Hess's claim based on Perrigan's verbal threat, taunting, and harassment did not state a plausible constitutional claim and was dismissed.
4. SWVRJ-Haysi Facility is not a person subject to suit under § 1983 and was dismissed from the action.
5. Hess was not entitled to a preliminary injunction or temporary restraining order requiring transfer to a Virginia Department of Corrections facility.

KEY QUOTATIONS

“The ‘core judicial inquiry,’ we held, was not whether a certain quantum of injury was sustained, but rather ‘whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm.’”

“When prison officials maliciously and sadistically use force to cause harm, contemporary standards of decency always are violated . . . whether or not significant injury is evident.”

“So long as the force used is more than de minimis, the objective component is satisfied, regardless of the extent of the injury.”

“Mere threats or verbal abuse by prison officials, without more, do not state a cognizable claim under § 1983.”

FACTUAL BACKGROUND

Hess, a convicted inmate, alleged that Correctional Officers Rasnick and Perrigan entered his cell to conduct a cell extraction. He alleged that Rasnick restrained his arms while Perrigan punched him four or five times in the ribs without justification, and that Perrigan threatened him during the incident. Hess also alleged a sexual comment by Rasnick, later bragging and taunting by Perrigan, and harsh treatment at a later facility.

PROCEDURAL HISTORY

Hess filed the action while incarcerated and proceeding pro se. The court did not dismiss the complaint during screening, and the individual defendants later moved to dismiss. The court granted dismissal of the sexual and verbal harassment claims, dismissed SWVRJ-Haysi Facility, denied dismissal of the excessive force claim, and denied Hess's transfer requests.

DISPOSITION

other

CASES CITED

- *Randall v. United States*, 30 F.3d 518, 522 (4th Cir. 1994)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 556 (2007)
- *Nemet Chevrolet, Ltd. v. ConsumerAffairs.com, Inc.*, 591 F.3d 250, 255 (4th Cir. 2010)
- *King v. Rubenstein*, 825 F.3d 206, 214 (4th Cir. 2016)
- *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985)
- *Jackson v. Lightsey*, 775 F.3d 170, 178 (4th Cir. 2014)
- *Goines v. Valley Community Services Board*, 822 F.3d 159, 165-66 (4th Cir. 2016)
- *West v. Atkins*, 487 U.S. 42, 48 (1988)
- *Perdue v. Penalosa*, 38 F.3d 1213, 1213 (4th Cir. 1994) (unpublished table opinion)
- *Blaydon v. Sw. Virginia Reg'l Jail-Duffield*, No. 7:23-cv-00340, 2024 WL 69828, at *1 (W.D. Va. Jan. 5, 2024)
- *Thompson v. Virginia*, 878 F.3d 89, 97-100 (4th Cir. 2017)
- *Estelle v. Gamble*, 429 U.S. 97, 102 (1976)
- *Hudson v. McMillian*, 503 U.S. 1, 7, 9-10 (1992)
- *Brooks v. Johnson*, 924 F.3d 104, 112-13 (4th Cir. 2019)
- *Wilkins v. Gaddy*, 559 U.S. 34, 37-39 (2010) (per curiam)

- Dean v. Jones, 984 F.3d 295, 303 (4th Cir. 2021)
- Hill v. Crum, 727 F.3d 312, 316-17 (4th Cir. 2013)
- Norman v. Taylor, 25 F.3d 1259, 1263 n.4 (4th Cir. 1994)
- Ussery v. Mansfield, 786 F.3d 332, 338 n.4 (4th Cir. 2015)
- Jackson v. Holley, 666 F. App'x 242, 244 (4th Cir. 2016)
- Henslee v. Lewis, 153 F. App'x 178, 180 (4th Cir. 2005)
- Pink v. Lester, 52 F.3d 73, 75 (4th Cir. 1995)
- Collins v. Cundy, 603 F.2d 825, 827 (10th Cir. 1979)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20 (2008)
- Taylor v. Freeman, 34 F.3d 266, 269-70 (4th Cir. 1994)
- Wetzel v. Edwards, 635 F.2d 283, 288 (4th Cir. 1980)
- De Beers Consolidated Mines v. United States, 325 U.S. 212, 220 (1945)
- Campbell v. Smith, No. 0:08-3668, 2009 WL 3111975, at *1 (D.S.C. Sept. 28, 2009)