

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Ryan Scott Smith v. Sgt. David Weaver, et al.

No reporter citation; No. 23-CV-6533-FPG (W.D.N.Y. Mar. 23, 2026) · No. 23-CV-6533-FPG · Decided March 23, 2026

SUMMARY

The United States District Court for the Western District of New York partially granted and partially denied defendants’ Rule 12(b)(6) motion in a prisoner civil rights action arising from an alleged use of excessive force. The court dismissed the state-law assault, battery, and infliction of emotional distress claims as barred by an untimely notice of claim, but allowed the federal excessive-force and failure-to-intervene claims to proceed and rejected dismissal based on non-exhaustion and qualified immunity.

CASE DETAILS

COURT	United States District Court for the Western District of New York
WRITING FOR THE COURT	Frank P. Geraci, Jr.
JURISDICTION	United States District Court for the Western District of New York
DECIDED	March 23, 2026
DOCKET	23-CV-6533-FPG
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the amended complaint for failure to state a claim, failure to exhaust administrative remedies, untimely notice of claim, and qualified immunity.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts factual allegations as true, draws reasonable inferences in the plaintiff’s favor, and asks whether the complaint states a plausible claim for relief. An affirmative defense such as PLRA nonexhaustion or qualified immunity may support dismissal at the pleading stage only when the defense is established from the face of the complaint.
PRECEDENTIAL VALUE	unknown

PARTIES

Ryan Scott Smith v. Sgt. David Weaver, Lt. Aaron Liver Good, Scott Mendola, Steven Latona, Jeffery Shawver, Marvin Tooke, Scott Smith, William Staley

TOPICS

motions to dismiss

section 1983

qualified immunity

police misconduct

civil rights

PRACTICE AREAS

civil rights

constitutional law

prisoner litigation

civil procedure

torts

QUESTIONS PRESENTED

1. Whether Smith's New York-law assault, battery, and infliction-of-emotional-distress claims were barred by his failure to comply with New York's notice-of-claim requirements.
2. Whether failure to exhaust administrative remedies was clear from the face of the amended complaint and warranted dismissal under the Prison Litigation Reform Act.
3. Whether Smith plausibly alleged Fourteenth Amendment excessive-force claims against the officers.
4. Whether Smith could plead failure-to-intervene claims in the alternative against officers also alleged to have used excessive force.
5. Whether qualified immunity could be resolved on the face of the complaint at the Rule 12(b)(6) stage.

HOLDINGS

1. Smith's state-law assault, battery, and infliction-of-emotional-distress claims were dismissed because he did not plead compliance with New York's notice-of-claim requirements and the submitted notice of claim was filed after the ninety-day deadline.
2. The court denied dismissal based on failure to exhaust because nonexhaustion was not clear from the face of the amended complaint.
3. Smith plausibly stated excessive-force claims against the officers alleged to have pepper-sprayed, restrained, punched, and otherwise used force against him while he was on the ground and not resisting.
4. Smith could pursue failure-to-intervene claims in the alternative against defendants who were also accused of using excessive force.
5. The court denied qualified immunity because the defense could not be established solely from the face of the complaint.

KEY QUOTATIONS

"For the foregoing reasons, Defendants' Motion to Dismiss, ECF No. 41, is GRANTED IN PART and DENIED IN PART."

"Plaintiffs state claims for assault, battery, and infliction of emotional distress are DISMISSED WITH PREJUDICE."

FACTUAL BACKGROUND

Smith alleged that, while he was a pretrial detainee at the Niagara County Jail, officers approached his cell after a false accusation that he was smoking. He alleged that officers handcuffed him, pepper-sprayed his face and eyes, placed body weight on his head and neck, bent his limbs, punched his ribs, and applied excessively tight restraints while he was on the ground and not resisting. He alleged physical injuries, psychological distress, nightmares, suicidal thoughts, and continuing fear of authority. He also alleged that some officers watched the force and failed to intervene.

PROCEDURAL HISTORY

Smith filed this action after an April 3, 2023 incident at the Niagara County Jail. After screening the original and amended complaints under 28 U.S.C. § 1915A, the court permitted claims for failure to intervene and infliction of emotional distress to proceed against several defendants and claims for excessive force, assault, and battery to proceed against others. The court granted the motion in part, dismissing the state-law assault, battery, and infliction-of-emotional-distress claims with prejudice, but denied dismissal of the remaining federal claims and directed defendants to answer.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678-679 (2009)
- Faber v. Metropolitan Life Insurance Co., 648 F.3d 98, 104 (2d Cir. 2011)
- In re NYSE Specialists Securities Litigation, 503 F.3d 89, 95 (2d Cir. 2007)
- United States v. Bonanno Organized Crime Family of La Cosa Nostra, 879 F.2d 20, 27 (2d Cir. 1989)
- Rothman v. Gregor, 220 F.3d 81, 88 (2d Cir. 2000)
- D'Andrea v. Monroe County, 602 F. Supp. 3d 428, 430 (W.D.N.Y. 2022)
- McCall v. Pataki, 232 F.3d 321, 323 (2d Cir. 2000)
- Hardy v. New York City Health & Hospitals Corp., 164 F.3d 789, 793 (2d Cir. 1999)
- Promisel v. First American Artificial Flowers, Inc., 943 F.2d 251, 257 (2d Cir. 1991)
- Ransom v. Banks, 2022 WL 769344, at *7 (S.D.N.Y. Mar. 14, 2022)
- American Telephone & Telegraph Co. v. New York City Department of Human Resources, 736 F. Supp. 496, 499 (S.D.N.Y. 1990)
- Wheeler v. City of Middletown, 2021 WL 2206490, at *9 (S.D.N.Y. June 1, 2021)
- Ross v. Blake, 578 U.S. 632 (2016)
- Espinal v. Goord, 558 F.3d 119, 124 (2d Cir. 2009)
- Porter v. Nussle, 534 U.S. 516, 532 (2002)
- Perez v. Ponte, 236 F. Supp. 3d 590, 604 (E.D.N.Y. 2017)
- Amador v. Andrews, 655 F.3d 89, 96 (2d Cir. 2011)

- *Woodford v. Ngo*, 548 U.S. 81, 90, 95 (2006)
- *Hill v. Curcione*, 657 F.3d 116, 124 (2d Cir. 2011)
- *Jones v. Bock*, 549 U.S. 199, 216 (2007)
- *Brooks v. Mullen*, 2020 WL 2512868, at *2 (W.D.N.Y. May 15, 2020)
- *Williams v. Prianto*, 829 F.3d 118, 122 (2d Cir. 2016)
- *Darnell v. Pineiro*, 849 F.3d 17, 21 n.3 (2d Cir. 2017)
- *Kingsley v. Hendrickson*, 576 U.S. 389, 396-400 (2015)
- *Abbas v. Tate*, 2022 WL 355401, at *4 (S.D.N.Y. Feb. 4, 2022)
- *Buari v. City of New York*, 530 F. Supp. 3d 356, 392 (S.D.N.Y. 2021)
- *Jean-Laurent v. Wilkinson*, 540 F. Supp. 2d 501, 512 (S.D.N.Y. 2008)
- *Anderson v. Branen*, 17 F.3d 552, 557 (2d Cir. 1994)
- *Williams v. DiPuccio*, 2024 WL 1765558, at *3 (N.D.N.Y. Apr. 24, 2024)
- *Franco v. City of Syracuse*, 2019 WL 1410348, at *4 (N.D.N.Y. Mar. 28, 2019)
- *McKenna v. Wright*, 386 F.3d 432, 436 (2d Cir. 2004)
- *Edrei v. Maguire*, 892 F.3d 525, 532 (2d Cir. 2018)
- *Smith v. Arrowood*, 2022 WL 3927884, at *8 (W.D.N.Y. Aug. 31, 2022)
- *Adilovic v. County of Westchester*, 2011 WL 2893101, at *6 n.12 (S.D.N.Y. July 14, 2011)
- *Frost v. New York City Police Department*, 980 F.3d 231, 257 (2d Cir. 2020)
- *Lynch ex rel. Lynch v. City of Mount Vernon*, 567 F. Supp. 2d 459, 468 (S.D.N.Y. 2008)