

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Guitron v. Paul

675 F.3d 1044 (7th Cir. 2012) · No. No. 11-2718 · Decided April 10, 2012

SUMMARY

The Seventh Circuit affirmed dismissal of a prisoner's Eighth Amendment excessive-force claim arising from a guard's use of force while escorting him to segregation. The court held that the alleged force was applied in a good-faith effort to maintain prison discipline after the prisoner disobeyed an order, rather than maliciously or sadistically to cause harm. The court also rejected the district court's alternative conclusion that the injury was de minimis, explaining that the relevant inquiry concerns the nature of the force and intent, not whether the injury was sufficiently significant.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Frank H. Easterbrook, Chief Judge; Richard A. Posner, Circuit Judge; Diane P. Wood, Circuit Judge
JURISDICTION	Federal
DECIDED	April 10, 2012
DOCKET	No. 11-2718
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from dismissal of a prisoner's complaint at the preliminary screening stage under 28 U.S.C. § 1915A.
STANDARD OF REVIEW	Review of dismissal at preliminary screening under 28 U.S.C. § 1915A; the court accepted the plaintiff's description of his injury at the complaint stage and assessed whether the allegations stated an Eighth Amendment claim.
PRECEDENTIAL VALUE	Published Seventh Circuit opinion; precedential.
PARTIES	Juan J. Guitron, Jr. v. Michael Paul, Bradley Mlodzik

TOPICS

- prisoners rights
- cruel and unusual punishment
- civil rights
- constitutional law
- motions to dismiss

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the alleged use of force by prison guards constituted cruel and unusual punishment under the Eighth Amendment.
2. Whether the complaint could be dismissed on the ground that the alleged injury was de minimis.
3. Whether the district court's dismissal should be affirmed despite its reliance on the de minimis-injury rationale.

HOLDINGS

1. The alleged force did not violate the Eighth Amendment because it was applied in response to Guitron's disobedience during a prison-security operation, and the allegations did not show that the guards acted maliciously or sadistically to cause harm.
2. A prisoner need not show a significant injury when the guard inflicted pain maliciously or sadistically; courts may not recreate a significant-injury requirement by labeling an injury insignificant or de minimis.
3. The dismissal was affirmed because the complaint, as elaborated in the appellate brief, failed to allege an actionable Eighth Amendment violation even though the district court used an incorrect injury-based rationale.

KEY QUOTATIONS

"whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." (675 F.3d at 1045)

"A court should not recreate the disapproved 'significant injury' requirement by classifying all consequences it deems 'insignificant' as de minimis harms." (675 F.3d at 1046)

"When a physical injury occurs as the result of force applied in the course of prison operations, as happened to Guitron, the courts should approach the matter as Whitley and Hudson v. McMillian direct, rather than trying to classify injuries as de minimis." (675 F.3d at 1046)

FACTUAL BACKGROUND

While prison guards Michael Paul and Bradley Mlodzik escorted Guitron toward segregation, they ordered him to get against a wall after seeing other inmates in the hallway. Guitron refused, responding that the order was bogus. Paul then bent Guitron's wrist, applied additional force, and slammed him against the wall; Guitron alleged that his wrist was swollen, red, and skinned and that pain lasted for two months. The court treated the force as a prison-security measure imposed after Guitron disobeyed an order.

PROCEDURAL HISTORY

Guitron alleged that prison guards twisted his wrist and slammed him against a wall while escorting him to segregation. The district court dismissed the complaint during preliminary screening, reasoning that the alleged

injury was de minimis and therefore not actionable under the Eighth Amendment. The Seventh Circuit affirmed, but rejected the district court's injury-based rationale and held that the allegations failed because the force was applied in response to Guitron's disobedience and did not plausibly show malicious or sadistic conduct.

DISPOSITION

affirmed

CASES CITED

- Whitley v. Albers, 475 U.S. 312, 319 (1986)
- Hudson v. McMillian, 503 U.S. 1, 7, 9-10 (1992)
- Williams v. Boles, 841 F.2d 181 (7th Cir. 1988)
- O'Malley v. Litscher, 465 F.3d 799, 805 (7th Cir. 2006)
- Outlaw v. Newkirk, 259 F.3d 833, 839 (7th Cir. 2001)
- DeWalt v. Carter, 224 F.3d 607, 620 (7th Cir. 2000)
- Hudson v. Palmer, 468 U.S. 517 (1984)

OPINION

EASTERBROOK, J.

675 F.3d 1044 (2012) Juan J. GUITRON, Jr., Plaintiff-Appellant, v. Michael PAUL and Bradley Mlodzik, Defendants-Appellees. No. 11-2718. United States Court of Appeals, Seventh Circuit. Submitted March 28, 2012. Decided April 10, 2012. *1045 Juan J. Guitron, Jr., (submitted), Waupun, WI, pro se.

Before EASTERBROOK, Chief Judge, and POSNER and SYKES, Circuit Judges. EASTERBROOK, Chief Judge. Juan Guitron maintains that a guard at the prison where Guitron was confined bent and injured his wrist. The district court dismissed the complaint after the preliminary screening required by 28 U.S.C. § 1915A. Guitron's complaint is skeletal. It alleges that, while Michael Paul and Bradley Mlodzik were escorting him down a hallway, Paul twisted his wrist and caused pain that lasted for two months.

Guitron's appellate brief elaborates. He asserts that, while the guards were taking him to segregation, they saw other inmates in the hallway and directed Guitron: "Get against the wall now". Guitron tells us that, instead of complying, he replied: "That's bogus man." Paul then began to bend Guitron's wrist; he complained but did not move. Paul next "applied full force" and slammed Guitron against the wall.

Only after Guitron reached his destination cellblock did Paul release his wrist, which was "swollen, red and skinned" from the pressure. The allegations of the complaint, as elaborated in the brief, show that the guards did not violate the eighth amendment. "To be cruel and unusual

punishment, conduct that does not purport to be punishment at all must involve more than ordinary lack of due care for the prisoner's interests or safety....

It is obduracy and wantonness, not inadvertence or error in good faith, that characterize the conduct prohibited by the Cruel and Unusual Punishments Clause.... The infliction of pain in the course of a prison security measure, therefore, does not amount to cruel and unusual punishment simply because it may appear in retrospect that the degree of force authorized or applied for security purposes was unreasonable, and hence unnecessary in the strict sense."

Whitley v. Albers, 475 U.S. 312, 319, 106 S.Ct. 1078, *1046 89 L.Ed.2d 251 (1986). See also Hudson v. McMillian, 503 U.S. 1, 7, 112 S.Ct. 995, 117 L.Ed.2d 156 (1992), which poses the inquiry as "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." Paul did not use any force until Guitron disobeyed a command that was designed to maintain order within the prison; and, when Paul applied modest force, Guitron remained defiant.

Paul did not violate the Constitution by applying additional force. Even if "it may appear in retrospect that the degree of force authorized or applied for security purposes was unreasonable" (Whitley, 475 U.S. at 319, 106 S.Ct. 1078), an error of judgment does not convert a prison security measure into a constitutional violation.

The district court reached its conclusion by a different route. It stated that Guitron's injury is de minimis and therefore not actionable under the eighth amendment. 2011 WL 2649979, 2011 U.S. Dist. LEXIS 72795 (E.D.Wis. July 6, 2011). It is hard to see how such a classification can be made without evidence at the complaint stage, a court must accept a plaintiff's description of the injury or why an injury that led to swelling and two months of pain would be too trivial for judicial attention.

Although the Supreme Court remarked in Hudson that "[t]he Eighth Amendment's prohibition of 'cruel and unusual' punishments necessarily excludes from constitutional recognition de minimis uses of physical force," 503 U.S. at 9-10, 112 S.Ct. 995, it added that a blow causing bruising, swelling, and loosened teeth could not be disregarded by invoking the maxim de minimis non curat lex (the law does not bother with trifles).

Id. at 10, 112 S.Ct. 995. Hudson went on to hold that a prisoner need not show a "significant injury" in order to have a good claim under the eighth amendment, if a guard inflicted pain maliciously or sadistically. See also Williams v. Boles, 841 F.2d 181 (7th Cir.1988) (anticipating this conclusion). Hudson said that minimal force is not actionable; it did not say that a real injury from significant force should be ignored.

A court should not recreate the disapproved "significant injury" requirement by classifying all consequences it deems "insignificant" as de minimis harms. The reason the Court referred to de

de minimis force in *Hudson* and the reason several opinions of this court have done so since, see *O'Malley v. Litscher*, 465 F.3d 799, 805 (7th Cir.2006); *Outlaw v. Newkirk*, 259 F.3d 833, 839 (7th Cir.2001); *DeWalt v. Carter*, 224 F.3d 607, 620 (7th Cir.2000) is not to revive a significant injury requirement by other means, but to emphasize an important difference between constitutional law and private law.

In tort law, any unconsented and offensive touching is a battery. See W. Page Keeton, *Prosser & Keeton on Torts* § 9 (5th ed. 1984). An unwelcome tickle with a feather can lead to an award of damages. A judgment of imprisonment strips a prisoner of that right to be let alone, and many other interests as well. See *Hudson v. Palmer*, 468 U.S. 517, 104 S.Ct. 3194, 82 L.Ed.2d 393 (1984).

Custodians must be able to handle, sometimes manhandle, their charges, if a building crammed with disgruntled people who disdain authority (that's how the prisoners came to be there, after all) is to be manageable. When a physical injury occurs as the result of force applied in the course of prison operations, as happened to Guitron, the courts should approach the matter as *Whitley* and *Hudson v. McMillian* direct, rather than trying to classify injuries as de minimis.

AFFIRMED.