

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Don Gordon; Terrell Jones v. Sergeant William C. Heath

No. 23-2232 (4th Cir. June 24, 2026) · No. 23-2232 · Decided June 24, 2026

SUMMARY

The Fourth Circuit affirmed the denial of qualified immunity to a Maryland State Police sergeant in an interlocutory appeal arising from Black officers’ claims of a racially hostile work environment. The court held that the amended complaint plausibly alleged the sergeant’s personal participation in, or tacit authorization of, the hostile environment and that the asserted right was clearly established.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	Judge Gregory; King, Circuit Judge; Gregory, Circuit Judge; Thacker, Circuit Judge
JURISDICTION	United States Court of Appeals for the Fourth Circuit
DECIDED	June 24, 2026
DOCKET	23-2232
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from the denial of qualified immunity at the motion-to-dismiss stage in an action alleging a racially hostile work environment under 42 U.S.C. § 1981, enforced through 42 U.S.C. § 1983.
STANDARD OF REVIEW	De novo review of the denial of qualified immunity at the motion-to-dismiss stage. The court accepts well-pleaded factual allegations as true and draws reasonable inferences for the plaintiffs, while disregarding legal conclusions, unwarranted inferences, and naked assertions. On interlocutory review, the court may decide legal questions concerning whether the alleged conduct violated clearly established law but may not reweigh factual disputes.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Sergeant William C. Heath v. Don Gordon, Terrell Jones

TOPICS

hostile work environment

racial discrimination

section 1983

qualified immunity

interlocutory appeal

PRACTICE AREAS

employment law

civil rights

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Fourth Circuit had jurisdiction to review the denial of qualified immunity on an interlocutory appeal.
2. Whether the amended complaint plausibly alleged that Sergeant Heath personally participated in or tacitly authorized a racially hostile work environment in violation of § 1981, enforced through § 1983.
3. Whether the right allegedly violated was clearly established when the challenged conduct occurred.
4. Whether qualified immunity therefore barred the individual-capacity hostile-work-environment claim at the pleading stage.

HOLDINGS

1. The court had jurisdiction under 28 U.S.C. § 1291 and the collateral-order doctrine to review the denial of qualified immunity insofar as Heath raised legal questions concerning the sufficiency of the alleged conduct and whether the right was clearly established.
2. The amended complaint plausibly alleged a racially hostile work environment under § 1981, enforced through § 1983, by alleging unwelcome conduct based on race that was sufficiently severe or pervasive to alter the conditions of employment and create an abusive atmosphere.
3. The amended complaint plausibly alleged Heath's personal involvement in and causal contribution to the hostile work environment through his participation in exclusionary practices and his purposeful nonresponse or tacit authorization of Oros's racial harassment.
4. The right to be free from the alleged racially hostile work environment was clearly established when the conduct occurred, so qualified immunity was unavailable at the pleading stage.

KEY QUOTATIONS

“In short, no reweighing of facts is permitted on this interlocutory review.” (8)

“At this stage of litigation, even with § 1981’s but-for requirement, see Comcast Corp., 589 U.S. at 341, a plaintiff need not plead that every discrete act was overtly racial.” (13)

“Accordingly, the Amended Complaint plausibly alleges that Sergeant Heath violated Gordon’s and Jones’s § 1981 rights (enforced through § 1983) by participating in and tacitly authorizing a racially hostile work environment.” (18)

“Accepting the well-pleaded allegations as true and drawing reasonable inferences in Plaintiffs’ favor, the Amended Complaint plausibly alleges that Sergeant Heath participated in and tacitly authorized a racially hostile work environment in violation of § 1981 (enforced through § 1983), and that the right at issue was clearly established at the time.” (24)

FACTUAL BACKGROUND

Don Gordon and Terrell Jones, two Black Maryland State Police officers, were assigned to a multi-agency drug task force supervised by Sergeant William Heath and Corporal Jason Oros. They alleged that Heath and Oros excluded them from informal meetings and group messages through which white officers received information about desirable assignments and overtime opportunities, causing lost opportunities and income. In June 2020, Oros allegedly circulated a racially and sexually offensive image depicting George Floyd, while Heath allegedly failed to discipline Oros, report the incident, or investigate it, and continued the exclusionary practices. The plaintiffs alleged that the resulting racial division and mistrust undermined their ability to work safely in the field.

PROCEDURAL HISTORY

Gordon and Jones filed EEOC charges on November 30, 2020, received right-to-sue letters on April 13, 2022, and filed suit in the District of Maryland on July 8, 2022. They filed an operative amended complaint on February 7, 2023, asserting Title VII, Equal Protection, and § 1981 claims. On September 21, 2023, the district court dismissed the race-discrimination claims but allowed the Title VII hostile-work-environment claim against Maryland State Police and the § 1981 hostile-work-environment claims against Heath and Oros to proceed, denying qualified immunity. Heath appealed that denial, and the Fourth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- *Mitchell v. Forsyth*, 472 U.S. 511, 526-27 (1985)
- *Iko v. Shreve*, 535 F.3d 225, 234 (4th Cir. 2008)
- *Winfield v. Bass*, 106 F.3d 525, 529-30 (4th Cir. 1997) (en banc)
- *Feminist Majority Foundation v. Hurley*, 911 F.3d 674, 685 (4th Cir. 2018)
- *Wikimedia Foundation v. National Security Agency*, 857 F.3d 193, 208 (4th Cir. 2017)
- *Pearson v. Callahan*, 555 U.S. 223, 231-32, 236 (2009)
- *Ashcroft v. al-Kidd*, 563 U.S. 731, 735, 741 (2011)
- *Comcast Corp. v. National Ass'n of African American-Owned Media*, 589 U.S. 327, 339, 341 (2020)
- *Guessous v. Fairview Property Investment, LLC*, 828 F.3d 208, 216 (4th Cir. 2016)
- *Saint Francis College v. Al-Khazraji*, 481 U.S. 604, 609 (1987)
- *Johnson v. Railway Express Agency, Inc.*, 421 U.S. 454, 459-60 (1975)
- *Jett v. Dallas Independent School District*, 491 U.S. 701, 731-33 (1989)
- *Dennis v. County of Fairfax*, 55 F.3d 151, 156 (4th Cir. 1995)
- *Spriggs v. Diamond Auto Glass*, 242 F.3d 179, 184 (4th Cir. 2001)
- *Strothers v. City of Laurel*, 895 F.3d 317, 328-31, 334-36 (4th Cir. 2018)
- *Causey v. Balog*, 162 F.3d 795, 801 (4th Cir. 1998)

- EEOC v. Sunbelt Rentals, Inc., 521 F.3d 306, 314 (4th Cir. 2008)
- Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75, 82 (1998)
- Harris v. Forklift Systems, Inc., 510 U.S. 17, 23 (1993)
- EEOC v. Fairbrook Medical Clinic, P.A., 609 F.3d 320, 328 (4th Cir. 2010)
- Boyer-Liberto v. Fontainebleau Corp., 786 F.3d 264, 280-81, 285-86 (4th Cir. 2015) (en banc)
- Wilcox v. Brown, 877 F.3d 161, 170 (4th Cir. 2017)
- Love-Lane v. Martin, 355 F.3d 766, 782 (4th Cir. 2004)
- Slakan v. Porter, 737 F.2d 368, 372-73 (4th Cir. 1984)
- Shaw v. Stroud, 13 F.3d 791, 799 (4th Cir. 1994)
- Wilkins v. Montgomery, 751 F.3d 214, 226-27 (4th Cir. 2014)
- Baynard v. Malone, 268 F.3d 228, 235 (4th Cir. 2001)
- Campbell v. Galloway, 483 F.3d 258, 263, 272 n.5 (4th Cir. 2007)
- Beardsley v. Webb, 30 F.3d 524, 528-29, 531 (4th Cir. 1994)
- Korb v. Lehman, 919 F.2d 243, 247 (4th Cir. 1990)
- Gordon v. Maryland State Police, No. CV GLR-22-1699, 2023 WL 6161089, at *9 (D. Md. Sept. 21, 2023)