

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FOURTH JUDICIAL DEPARTMENT

Wade v. County of Monroe

2025 NY Slip Op 07138 (Supreme Court of the State of New York Appellate Division Fourth Judicial
Department 2025) · No. 811 CA 24-00786 · Decided December 23, 2025

SUMMARY

The Appellate Division, Fourth Department affirmed an order denying Monroe County's motion to dismiss claims brought under the Adult Survivors Act by former Monroe County Jail inmates alleging sexual assault. The court held that the County could owe independent duties to maintain the jail and protect prisoners from reasonably foreseeable harm, even though the County was not vicariously liable for negligence by the Sheriff or deputies absent a local law assuming such responsibility. The court also held that claims involving negligent hiring, training, retention, supervision, and gross negligence could proceed where the alleged assailant might have been a County civilian employee.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Montour, J.P.; Smith, J.; Greenwood, J.; Nowak, J.; Keane, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
DECIDED	December 23, 2025
DOCKET	811 CA 24-00786
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order denying, in relevant part, the County's CPLR 3211(a)(7) motion to dismiss the first through seventh causes of action for failure to state a cause of action.
STANDARD OF REVIEW	On a CPLR 3211(a)(7) motion, the court accepts the facts alleged in the complaint as true, gives the plaintiff the benefit of every possible favorable inference, and determines only whether the alleged facts fit within a cognizable legal theory. Bare legal conclusions are not accorded the same consideration.
PRECEDENTIAL VALUE	Published New York appellate opinion; precedential value within the Fourth Department subject to New York precedent and later treatment.

PARTIES

County of Monroe v. Judith Wade

TOPICS

motions to dismiss

municipal liability

negligence

negligent supervision

civil procedure

PRACTICE AREAS

torts

civil procedure

municipal liability

constitutional law

QUESTIONS PRESENTED

1. Whether the complaints adequately pleaded negligence claims against Monroe County based on the County's alleged duty to maintain the jail and protect inmates from reasonably foreseeable harm.
2. Whether the County could be held vicariously liable for alleged negligence by the Sheriff or the Sheriff's deputies absent a local law assuming responsibility for those acts.
3. Whether the County's motion to dismiss the state constitutional cruel-and-unusual-punishment claim should have been granted based on the asserted absence of any County duty to protect jail prisoners.
4. Whether the negligent hiring, training, retention, supervision, gross-negligence, and willful-misconduct claims in appeal No. 1 were adequately pleaded where the alleged assailant could have been a civilian County employee.

HOLDINGS

1. The County owes a duty to maintain a county jail as prescribed by law and a separate duty to provide reasonable care to protect prisoners from risks of harm that are reasonably foreseeable. Plaintiff adequately pleaded that the County breached those duties and that the breach proximately caused the alleged injuries.
2. Absent a local law assuming responsibility, Monroe County cannot be held vicariously liable under respondeat superior for negligent acts of the Sheriff or the Sheriff's deputies.
3. A county may be vicariously liable for negligent acts of Sheriff's Office civilian employees because the Sheriff's Office does not have a separate legal identity from the County.
4. The County's motion to dismiss was properly denied as to the claims challenged on appeal because the complaints adequately alleged cognizable theories of recovery, including a County duty to protect inmates from foreseeable harm. The Court also affirmed denial of dismissal of the seventh cause of action because the County's challenge rested entirely on the erroneous assertion that the County owed no such duty.

KEY QUOTATIONS

*"Nonetheless, the County has a duty "to maintain a county jail as prescribed by law"" (*2)*

*"plaintiffs have each adequately pleaded under the first cause of action that the County's violations of that duty proximately caused their injuries" (*2)*

*“a county may be vicariously liable for the negligent acts of the [S]heriff’s civilian employees” (*3)*

FACTUAL BACKGROUND

Plaintiff alleged that she was sexually assaulted by staff members while confined at the Monroe County Jail. The complaints alleged that Monroe County failed to maintain the jail and its facilities in a reasonably safe condition and failed to protect inmates from reasonably foreseeable sexual assault. In appeal No. 1, the alleged assailant was described both as a correctional officer and as a doctor or optometrist working at the jail, leaving open the possibility that the person was a civilian County employee.

PROCEDURAL HISTORY

Plaintiff commenced an action under the Adult Survivors Act against Monroe County and the Monroe County Sheriff's Office, alleging sexual assault by staff members while plaintiff was confined at the Monroe County Jail. Before answering, defendants moved to dismiss. Supreme Court dismissed the claims against the Sheriff's Office and dismissed the eighth cause of action against the County, but denied dismissal of the first through seventh causes of action against the County. The County appealed, and the Appellate Division unanimously affirmed.

DISPOSITION

affirmed

CASES CITED

- Johanson v County of Erie, 134 AD3d 1530, 1531-1532 (4th Dept 2015)
- Connaughton v Chipotle Mexican Grill, Inc., 29 NY3d 137, 141-142 (2017)
- Leon v Martinez, 84 NY2d 83, 87-88 (1994)
- EBC I, Inc. v Goldman, Sachs & Co., 5 NY3d 11, 19 (2005)
- Moore Charitable Found. v PJT Partners, Inc., 40 NY3d 150, 153 (2023)
- Davis v South Nassau Communities Hosp., 26 NY3d 563, 572 (2015)
- Hamilton v Beretta U.S.A. Corp., 96 NY2d 222, 232 (2001)
- Weisbrod-Moore v Cayuga County, 2025 NY Slip Op 00903, *1 (2025)
- Sanchez v State of New York, 99 NY2d 247, 252-253 (2002)
- Freeland v Erie County, 122 AD3d 1348, 1350 (4th Dept 2014)
- Villar v Howard, 28 NY3d 74, 80 (2016)
- Adams v County of Rensselaer, 66 NY2d 725, 727 (1985)
- Marashian v City of Utica, 214 AD2d 1034, 1034 (4th Dept 1995)
- Abate v County of Erie, 195 AD3d 1531, 1532 (4th Dept 2021)
- Mosey v County of Erie, 117 AD3d 1381, 1385 (4th Dept 2014)
- Trisvan v County of Monroe, 26 AD3d 875, 876 (4th Dept 2006), lv dismissed 6 NY3d 891 (2006)
- D'Amico v Correctional Med. Care, Inc., 120 AD3d 956, 959 (4th Dept 2014)
- Smelts v Meloni [appeal No. 3], 306 AD2d 872, 873-874 (4th Dept 2003), lv denied 100 NY2d 516 (2003)

- Matter of County of Cayuga v McHugh, 4 NY2d 609, 613, 615-616 (1958)
- Aviles v County of Orange, 204 AD3d 740, 741 (2d Dept 2022)
- Iannelli v County of Nassau, 156 AD3d 767, 768-769 (2d Dept 2017)
- Villar v County of Erie, 126 AD3d 1295, 1296 (4th Dept 2015)
- Smith v County of Albany, 12 AD3d 912, 913-914 (3d Dept 2004)
- Schulik v County of Monroe, 202 AD2d 960, 961 (4th Dept 1994)
- Metcalf v County of Erie, 173 AD3d 1799, 1800 (4th Dept 2019)

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