

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Thomas James v. Lorenzo Eli

Thomas James v. Lorenzo Eli, 889 F.3d 320 (7th Cir. 2018) · No. 15-3034 · Decided May 2, 2018

SUMMARY

**\*\*Key Legal Topics:\*\*** Recruitment of counsel for pro se prisoner litigants under 28 U.S.C. § 1915(e) (1); deliberate indifference to serious medical needs (Eighth Amendment); abuse of discretion standard for denying counsel. **\*\*Holding:\*\*** The Seventh Circuit vacated summary judgment for the defendants, holding that the district court abused its discretion by denying the plaintiff's motions for recruited counsel without adequately considering the case's complexity—including the need for expert medical evidence, the plaintiff's incarceration 1,000 miles from the events, and the advanced stage of litigation—and without assessing the plaintiff's ability to handle discovery and summary judgment. The court found prejudice because the plaintiff's inability to obtain admissible evidence or conduct discovery demonstrated a reasonable likelihood that counsel would have altered the outcome.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                       |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States Court of Appeals for the Seventh Circuit                                                                                                                                                                                                                |
| WRITING FOR THE COURT | FLAUM, Circuit Judge; WOOD, Chief Judge; KANNE, Circuit Judge                                                                                                                                                                                                         |
| JURISDICTION          | Federal                                                                                                                                                                                                                                                               |
| DECIDED               | May 2, 2018                                                                                                                                                                                                                                                           |
| DOCKET                | 15-3034                                                                                                                                                                                                                                                               |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division, No. 1:13-cv-541, William T. Lawrence, Judge. Entry of summary judgment in favor of defendants and denial of plaintiff's motions for recruitment of counsel. |
| STANDARD OF REVIEW    | Abuse of discretion                                                                                                                                                                                                                                                   |
| PRECEDENTIAL VALUE    | Published                                                                                                                                                                                                                                                             |
| PARTIES               | Thomas James v. Lorenzo Eli and Nicolas Villanustre                                                                                                                                                                                                                   |

TOPICS

- civil procedure
- appellate procedure
- standard of review
- civil rights
- prisoners rights

## PRACTICE AREAS

Civil Rights

Prisoner's Rights

## QUESTIONS PRESENTED

1. Whether the district court abused its discretion in denying plaintiff's motions for recruitment of counsel under 28 U.S.C. § 1915(e)(1).

## HOLDINGS

1. The district court abused its discretion because it failed to give full consideration to the combined complicating factors—specifically, the need for expert medical testimony, the plaintiff's incarceration far from the litigation location, and the advanced stage of the case—and instead made only cursory references to plaintiff's competence.
2. Plaintiff's deficient pretrial performance, including inability to obtain admissible evidence, conduct discovery, or secure expert testimony, establishes a reasonable likelihood that the presence of counsel would have made a difference in the outcome.

## KEY QUOTATIONS

*“The question is not whether a lawyer would present the case more effectively than the pro se plaintiff; ... rather, the question is whether the difficulty of the case—factually and legally—exceeds the particular plaintiff's capacity as a layperson to coherently present it to the judge or jury himself.” (at 7-8)*

*“District courts abuse their discretion where they fail to consider the complexities of advanced-stage litigation activities and whether a litigant is capable of handling them.” (at 9)*

*“the district court failed to take into consideration the peculiar circumstances of this case that made the pretrial phase of this litigation especially difficult for this particular plaintiff.” (at 15)*

## FACTUAL BACKGROUND

Plaintiff James, while incarcerated at New Castle Correctional Facility in Indiana, developed an infected ingrown toenail in October 2007. Dr. Eli treated him with antibiotics, pain medication, and a follow-up. Subsequently, James fell and fractured his left mandible. Dr. Villanustre, a plastic surgeon, evaluated the fracture and determined surgery was unnecessary due to good function and normal occlusion. James alleges deliberate indifference in both treatments, particularly that Eli's care caused a staph infection and Villanustre's decision led to long-term jaw disorder and migraines.

## PROCEDURAL HISTORY

Plaintiff Thomas James filed a pro se Eighth Amendment complaint in September 2009, alleging deliberate indifference to his medical care. He filed multiple motions for recruitment of counsel, all denied. The district court granted summary judgment to defendants. Plaintiff appealed the denial of counsel.

## DISPOSITION

## REMAND INSTRUCTIONS

For further proceedings consistent with this opinion.

## CASES CITED

- *Pruitt v. Mote*, 503 F.3d 647 (7th Cir. 2007)
- *Martin v. Franklin Capital Corp.*, 546 U.S. 132 (2005)
- *Johnson v. Doughty*, 433 F.3d 1001 (7th Cir. 2006)
- *Miller v. Campanella*, 794 F.3d 878 (7th Cir. 2015)
- *Perez v. Fenoglio*, 792 F.3d 768 (7th Cir. 2015)
- *Santiago v. Walls*, 599 F.3d 749 (7th Cir. 2010)
- *Junior v. Anderson*, 724 F.3d 812 (7th Cir. 2013)
- *Navejar v. Iyiola*, 718 F.3d 692 (7th Cir. 2013)
- *Tucker v. Randall*, 948 F.2d 388 (7th Cir. 1991)
- *Olson v. Morgan*, 750 F.3d 708 (7th Cir. 2014)
- *Henderson v. Ghosh*, 755 F.3d 559 (7th Cir. 2014)
- *Zarnes v. Rhodes*, 64 F.3d 285 (7th Cir. 1995)
- *McGee v. Adams*, 721 F.3d 474 (7th Cir. 2013)
- *Greeno v. Daley*, 414 F.3d 645 (7th Cir. 2005)
- *Jackson v. Cty. of McLean*, 953 F.2d 1070 (7th Cir. 1992)
- *Petties v. Carter*, 836 F.3d 722 (7th Cir. 2016)
- *Dewitt v. Corizon, Inc.*, 760 F.3d 654 (7th Cir. 2014)
- *Romanelli v. Suliene*, 615 F.3d 847 (7th Cir. 2010)
- *Wilborn v. Ealey*, 881 F.3d 998 (7th Cir. 2018)
- *Farmer v. Haas*, 990 F.2d 319 (7th Cir. 1993)
- *Musser v. Gentiva Health Servs.*, 356 F.3d 751 (7th Cir. 2004)
- *Jardien v. Winston Network, Inc.*, 888 F.2d 1151 (7th Cir. 1989)
- *Kruger v. Apfel*, 214 F.3d 784 (7th Cir. 2000)
- *Cuevas v. United States*, 580 F. App'x 71 (3d Cir. 2014)

## CITED IN

- *Thomas James v. Lorenzo Eli, James v. Eli*, 889 F.3d 320, 326 (7th Cir. 2018)
- *Thomas James v. Lorenzo Eli, James v. Eli*, 889 F.3d 320, 328 (7th Cir. 2018)
- *Thomas James v. Lorenzo Eli, James v. Eli*, 889 F.3d 320, 326 (7th Cir. 2018)
- *Thomas James v. Lorenzo Eli, James v. Eli*, 889 F.3d 320, 327-28 (7th Cir. 2018)

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