

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Yeshua Khalil-James Schworck v. Deputy Gabriel Bosben

Schworck v. Bosben · No. 24-cv-597-jdp · Decided February 13, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin denied Deputy Gabriel Bosben’s motion for summary judgment in Yeshua Khalil-James Schworck’s Fourteenth Amendment conditions-of-confinement action. The court held that evidence that Bosben briefly squeezed Schworck’s penis during a urine-sample collection could support a finding of intentional and objectively unreasonable conduct, and that the dispute also precluded qualified immunity. Schworck was ordered to notify the court by February 20, 2026, whether he intends to continue prosecuting the case.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	James D. Peterson
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	February 13, 2026
DOCKET	24-cv-597-jdp
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for summary judgment on a pretrial detainee's Fourteenth Amendment conditions-of-confinement claim for damages. The court denied the motion and separately directed the plaintiff to notify the court whether he intended to continue prosecuting the case.
STANDARD OF REVIEW	Summary judgment is proper only when the material facts are undisputed and the movant is entitled to judgment as a matter of law. The evidence is viewed and reasonable inferences are drawn in favor of the nonmoving party. The court also considered whether the alleged constitutional right was clearly established for qualified-immunity purposes.
PRECEDENTIAL VALUE	unpublished district court opinion

TOPICS

summary judgment

qualified immunity

civil rights

due process

cruel and unusual punishment

PRACTICE AREAS

civil rights

constitutional law

prisoners rights

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether the evidence created a genuine issue of material fact regarding whether Bosben intentionally touched Schworck's private parts for an illegitimate purpose and thereby acted objectively unreasonably under the Fourteenth Amendment.
2. Whether Schworck's failure to respond to the summary-judgment motion required judgment for Bosben.
3. Whether Bosben was entitled to qualified immunity because the alleged constitutional right was not clearly established.

HOLDINGS

1. A reasonable jury could find that Bosben intentionally squeezed Schworck's penis for an illegitimate purpose and that the conduct was objectively unreasonable under the circumstances; therefore, summary judgment was unwarranted.
2. A nonmovant's failure to respond to a summary-judgment motion may result in the movant's proposed facts being deemed undisputed, but it does not automatically entitle the movant to judgment.
3. Bosben was not entitled to qualified immunity at the summary-judgment stage because, if he intentionally squeezed Schworck's penis for an illegitimate purpose, the conduct violated a clearly established constitutional right.

KEY QUOTATIONS

“But a nonmovant’s failure to respond to a summary judgment motion, or to comply with the court’s summary judgment procedures, does not automatically result in judgment for the moving party.”

“A prison official acts in an objectively unreasonable manner if, against a pretrial detainee’s will, the official touches the detainee’s private parts with the intent to humiliate him or to gratify the official’s sexual desires.”

“So when, according to Schworck, Bosben squeezed his penis, every reasonable deputy would have understood that this conduct was objectively unreasonable.”

FACTUAL BACKGROUND

Schworck was a pretrial detainee at the Dane County Jail when deputies required prisoners to provide urine samples after smelling smoke and suspecting drug activity. During Bosben's attempted collection of Schworck's sample, Bosben entered Schworck's cell because Schworck was taking time to urinate and appeared to be preventing observation of the sample. Schworck testified that, during a three- to four-second struggle over the specimen cup, Bosben briefly squeezed his penis with two fingers and a thumb; a later urine sample was negative.

PROCEDURAL HISTORY

Schworck, proceeding without counsel, sued Dane County Jail deputy Gabriel Bosben based on alleged inappropriate touching during an attempted urine collection. The district court permitted Schworck to proceed on a Fourteenth Amendment claim. Bosben moved for summary judgment, but Schworck did not respond despite two deadline extensions. The court deemed Bosben's proposed facts undisputed but denied summary judgment because the undisputed deposition testimony supported a reasonable inference that Bosben intentionally touched Schworck's penis for an illegitimate purpose. The court also denied qualified immunity because the immunity question depended on the factual dispute.

DISPOSITION

other

CASES CITED

- Allen-Noll v. Madison Area Technical College, 969 F.3d 343, 349 (7th Cir. 2020)
- Smith v. Lamz, 321 F.3d 680, 683 (7th Cir. 2003)
- Estate of Sillah by Carter v. City of Madison, No. 23-cv-96-jdp, 2024 WL 4650945, at *9 (W.D. Wis. Nov. 1, 2024)
- Donald v. Wexford Health Sources, Inc., 982 F.3d 451, 457 (7th Cir. 2020)
- Pulera v. Sarzant, 966 F.3d 540, 550 (7th Cir. 2020)
- Hardeman v. Curran, 933 F.3d 816, 822 (7th Cir. 2019)
- Wood v. Johnson, No. 19-cv-619, 2022 WL 4121405, at *4 (E.D. Wis. Sept. 9, 2022), aff'd sub nom. Wood v. Milwaukee County, No. 22-3030, 2023 WL 5348344 (7th Cir. Aug. 21, 2023)
- McCottrell v. White, 933 F.3d 651, 663 (7th Cir. 2019)
- Washington v. Hively, 695 F.3d 641, 642-43 (7th Cir. 2012)
- Raymond v. Ameritech Corp., 442 F.3d 600, 608 (7th Cir. 2006)
- Smith v. Turner, 834 F. App'x 261, 262-64 (7th Cir. 2021)
- Stockton v. Milwaukee County, 44 F.4th 605, 620 (7th Cir. 2022)
- Tolan v. Cotton, 572 U.S. 650, 656 (2014) (per curiam)
- Estate of Escobedo v. Bender, 600 F.3d 770, 781 (7th Cir. 2010)
- Forrest v. Prine, 620 F.3d 739, 744 (7th Cir. 2010)