

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Darby v. Greenman

No. 19-2084, United States Court of Appeals for the Second Circuit (September 16, 2021)

SUMMARY

The Second Circuit affirmed dismissal of an incarcerated plaintiff's § 1983 deliberate indifference claims regarding a gum abscess, holding that a dentist's recommendation of a tooth extraction and another's provision of a dental cleaning constituted, at most, medical malpractice rather than the culpable recklessness required for a constitutional violation. The court also held that the plaintiff failed to state a claim against unidentified prison officials (Doe Defendants) because the complaint lacked specific factual allegations of their personal involvement or knowledge of the severity of his condition, which could not be supplied by inference. The dissent argued the proposed treatments were not actually responsive to the serious medical need and that the plaintiff's detailed allegations of following prison procedures were sufficient to infer the Doe Defendants' involvement at the pleading stage.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	PARK; CABRANES; CARNEY
JURISDICTION	Federal
DECIDED	September 16, 2021
DOCKET	19-2084
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Eastern District of New York grant of motion to dismiss under Federal Rule of Civil Procedure 12(b)(6).
STANDARD OF REVIEW	de novo
PRECEDENTIAL VALUE	Published
PARTIES	Devin Darby v. David Greenman, Rafael Hamilton, John Doe No. 1, John Doe No. 2

TOPICS

- civil rights
- section 1983
- prisoners rights
- fourteenth amendment
- motions to dismiss
- standard of review

PRACTICE AREAS

Prisoners' Rights

Civil Rights

Appellate Procedure

QUESTIONS PRESENTED

1. Whether the district court erred in dismissing Darby's constitutional claims against the Dentist Defendants for failure to state a claim of deliberate indifference to serious medical needs under the Eighth and Fourteenth Amendments.
2. Whether the district court erred in dismissing Darby's constitutional claims against the Doe Defendants for failure to allege personal involvement and deliberate indifference.

HOLDINGS

1. Darby failed to allege deliberate indifference because his complaint describes at most a difference of opinion about the proper course of treatment, which does not demonstrate conscious disregard of a substantial risk of harm.
2. Darby failed to state a claim because the allegations do not establish that Hamilton possessed a sufficiently culpable state of mind; at most, the complaint suggests negligence.
3. Darby fails to state a claim because he does not allege sufficient facts to establish personal involvement or that the Doe Defendants knew or should have known of a substantial risk to his health. The complaint provides no factual basis to infer receipt of grievances or knowledge of severity.

KEY QUOTATIONS

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" (8)

"Deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain' proscribed by the Eighth Amendment." (9)

"A prison official cannot be found liable under the Eighth Amendment . . . unless the official knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." (10)

"These allegations do not even suggest that Greenman acted with deliberate indifference." (11)

"Even assuming that Greenman's proposed treatment was inadequate, 'mere medical malpractice is not tantamount to deliberate indifference' absent a showing of 'conscious disregard of a substantial risk of serious harm.'" (12)

"Darby has thus failed to state an Eighth Amendment claim against Hamilton." (13)

"Darby fails to state a claim against the Doe Defendants because he does not allege any 'personal involvement . . . in alleged constitutional deprivations.'" (14)

FACTUAL BACKGROUND

From February to June 2017, while incarcerated at Rikers Island, Devin Darby suffered from a painful gum abscess measuring 3x3 cm. He saw prison dentist Greenman, who suggested a tooth extraction (which Darby refused) and acknowledged a parotid gland issue requiring a specialist. Darby later saw dentist Hamilton, who performed only a basic dental cleaning despite Darby's protests. Darby submitted approximately 15 sick call requests and several grievances describing his worsening symptoms, but received no further medical attention. After being transferred to another facility, he was eventually diagnosed and underwent gum surgery in February 2018.

PROCEDURAL HISTORY

Darby filed a pro se complaint in the district court asserting §1983 claims and state law claims. The district court (Cogan, J.) dismissed the complaint under Rule 12(b)(6) for failure to state a claim. Darby appealed the dismissal of his constitutional claims.

DISPOSITION

affirmed

CASES CITED

- City of New York v. Chevron Corp., City of New York v. Chevron Corp., 993 F.3d 81 (2d Cir. 2021)
- Bacon v. Phelps, 961 F.3d 533 (2d Cir. 2020)
- Ashcroft v. Iqbal, 556 U.S. 662 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007)
- Gallop v. Cheney, 642 F.3d 364 (2d Cir. 2011)
- Walker v. Schult, 717 F.3d 119 (2d Cir. 2013)
- Estelle v. Gamble, 429 U.S. 97 (1976)
- City of Revere v. Mass. Gen. Hosp., 463 U.S. 239 (1983)
- Farmer v. Brennan, 511 U.S. 825 (1994)
- Charles v. Orange County, 925 F.3d 73 (2d Cir. 2019)
- County of Sacramento v. Lewis, 523 U.S. 833 (1998)
- Darnell v. Pineiro, 849 F.3d 17 (2d Cir. 2017)
- Wilson v. Seiter, 501 U.S. 294 (1991)
- Chance v. Armstrong, 143 F.3d 698 (2d Cir. 1998)
- Hathaway v. Coughlin, 37 F.3d 63 (2d Cir. 1994)
- Gaffney v. Perelmutter, 805 F. App'x 53 (2d Cir. 2020)
- Farrell v. Burke, 449 F.3d 470 (2d Cir. 2006)
- Wright v. Smith, 21 F.3d 496 (2d Cir. 1994)
- Litmon v. Harris, 768 F.3d 1237 (9th Cir. 2014)
- Fleming v. United States, 146 F.3d 88 (2d Cir. 1998)
- Grullon v. City of New Haven, 720 F.3d 133 (2d Cir. 2013)

- Papasan v. Allain, 478 U.S. 265 (1986)

CITED IN

- Darby v. Greenman, Darby v. Greenman, 14 F.4th 124 (2d Cir. 2021)
- Darby v. Greenman, Darby v. Greenman, 14 F.4th 124, 128, 130 n.6 (2d Cir. 2021)
- Darby v. Greenman, Darby v. Greenman, 14 F.4th 124 (2d Cir. 2021)
- Darby v. Greenman, Darby v. Greenman, 14 F.4th 124, 128 (2d Cir. 2021)

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