

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Anthony Mays v. Thomas Dart

No. 20-1792, United States Court of Appeals for the Seventh Circuit (September 8, 2020)

SUMMARY

In this published Seventh Circuit opinion, the court reversed a preliminary injunction requiring the Cook County Jail to eliminate double celling and group housing for social distancing during the COVID-19 pandemic, holding that the district court committed three legal errors: (1) it failed to consider the totality of the Sheriff's conduct in responding to the pandemic; (2) it failed to afford proper deference to correctional administrators' judgment on safety and security under *Bell v. Wolfish*; and (3) it applied the incorrect "better than negligible" standard for likelihood of success on the merits rather than the proper "some likelihood" standard. The court affirmed the remainder of the preliminary injunction (sanitation, testing, and face masks) because the district court properly considered the totality of circumstances and relied on CDC guidelines. The case clarifies the objective reasonableness standard for Fourteenth Amendment conditions-of-confinement claims by pretrial detainees under *Kingsley v. Hendrickson* and the sliding-scale approach for preliminary injunctions, emphasizing that courts must evaluate the defendant's entire course of conduct—not isolated aspects—and defer to prison administrators' expertise on security-related housing decisions.

CASE DETAILS

|                       |                                                                                                                                                 |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States Court of Appeals for the Seventh Circuit                                                                                          |
| WRITING FOR THE COURT | St. Eve, Circuit Judge; SYKES, Chief Judge; BRENNAN, Circuit Judge; ST. EVE, Circuit Judge                                                      |
| JURISDICTION          | Federal                                                                                                                                         |
| DECIDED               | September 8, 2020                                                                                                                               |
| DOCKET                | 20-1792                                                                                                                                         |
| DISPOSITION           | reversed in part, affirmed in part                                                                                                              |
| PROCEDURAL POSTURE    | Appeal from a preliminary injunction order.                                                                                                     |
| STANDARD OF REVIEW    | We review the district court's balancing of harms for abuse of discretion, its legal conclusions de novo, and findings of fact for clear error. |
| PRECEDENTIAL VALUE    | published                                                                                                                                       |
| PARTIES               | Thomas J. Dart, Sheriff of Cook County, Illinois v. Anthony Mays, individually and on behalf of a class of similarly situated persons, et       |

al.

## TOPICS

injunctions civil procedure standard of review appellate procedure fourteenth amendment due process  
prisoners rights class actions health law

## PRACTICE AREAS

Civil Rights Constitutional Law Prisoner Litigation

## QUESTIONS PRESENTED

1. Whether the district court abused its discretion in granting the preliminary injunction requiring socially distanced housing.
2. Whether the district court applied the correct legal standards when evaluating the likelihood of success on the merits.

## HOLDINGS

1. The district court erred by narrowly focusing its analysis on social distancing rather than considering the totality of the Sheriff's COVID-19 response.
2. The district court did not meaningfully consider the deference owed to correctional administrators when evaluating housing decisions.
3. The district court erred by using the 'better than negligible' standard instead of the 'some likelihood of success' standard required by Winter and Nken.

## KEY QUOTATIONS

*“the district court committed three distinct legal errors: the district court failed to consider the Sheriff’s conduct in its totality, failed to afford proper deference to the Sheriff’s judgment in adopting policies necessary to ensure safety and security, and cited an incorrect legal standard when evaluating the likelihood that Plaintiffs’ claims will succeed on their merits.”* (at 2-3)

*“We conclude that the district court committed three distinct legal errors: the court failed to consider the totality of the circumstances, the court failed to afford proper deference to the Sheriff’s judgment in adopting policies necessary to ensure safety and security in the Jail, and the court recited an incorrect legal standard when evaluating the likelihood that Plaintiffs’ contentions will succeed on their merits.”* (at 13)

*“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits.”* (at 19-20)

*“It is not enough that the chance of success on the merits be ‘better than negligible’”* (at 20)

## FACTUAL BACKGROUND

The Cook County Jail is a large facility with dormitory-style housing, making it prone to rapid spread of COVID-19. In March 2020, the Jail became a major hotspot. The Sheriff took numerous proactive measures including establishing quarantine for new detainees, increasing testing, cleaning, and reducing density. The district court initially granted a temporary restraining order requiring certain measures but declined to order full social distancing. Later, upon the plaintiffs' motion for a preliminary injunction, the court switched course and ordered a policy precluding double celling and group housing, except in limited circumstances. The Sheriff appealed, arguing that the district court failed to consider the totality of his efforts and the deference owed to correctional administrators.

## PROCEDURAL HISTORY

Plaintiffs, a class of detainees at the Cook County Jail, sued Sheriff Dart for violations of their Fourteenth Amendment Due Process rights due to COVID-19 conditions. The district court granted a temporary restraining order on April 9, 2020, and later a preliminary injunction on April 27, 2020, which included a requirement to preclude double celling and group housing. The Sheriff appealed, challenging the entire preliminary injunction but focusing on the social distancing mandate.

## DISPOSITION

reversed in part, affirmed in part

## CASES CITED

- Speech First, Inc. v. Killeen, 968 F.3d 628 (7th Cir. 2020)
- Courthouse News Serv. v. Brown, 908 F.3d 1063 (7th Cir. 2018)
- Ty, Inc. v. Jones Grp., Inc., 237 F.3d 891 (7th Cir. 2001)
- Graham v. Medical Mut. of Ohio, 130 F.3d 293 (7th Cir. 1997)
- Pashby v. Delia, 709 F.3d 307 (4th Cir. 2013)
- C.Y. Wholesale, Inc. v. Holcomb, 965 F.3d 541 (7th Cir. 2020)
- Lawson Prod., Inc. v. Avnet, Inc., 782 F.2d 1429 (7th Cir. 1986)
- Valencia v. City of Springfield, 883 F.3d 959 (7th Cir. 2018)
- Kingsley v. Hendrickson, 576 U.S. 389 (2015)
- Miranda v. Cty. of Lake, 900 F.3d 335 (7th Cir. 2018)
- Hardeman v. Curran, 933 F.3d 816 (7th Cir. 2019)
- McCann v. Ogle Cty., Illinois, 909 F.3d 881 (7th Cir. 2018)
- Henry v. Hulett, 2020 WL 469188 (7th Cir. 2020) (en banc)
- Bell v. Wolfish, 441 U.S. 520 (1979)
- Florence v. Bd. of Chosen Freeholders of Cty. of Burlington, 566 U.S. 318 (2012)
- Pell v. Procunier, 417 U.S. 817 (1974)
- Illinois Republican Party v. Pritzker, 2020 WL 5246656 (7th Cir. 2020)
- Omega Satellite Prod. Co. v. City of Indianapolis, 694 F.2d 119 (7th Cir. 1982)

- Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7 (2008)
- Nken v. Holder, 556 U.S. 418 (2009)
- Hilton v. Braunskill, 481 U.S. 770 (1987)
- Sofinet v. INS, 188 F.3d 703 (7th Cir. 1999)
- Eli Lilly and Co. v. Arla Foods, Inc., 893 F.3d 375 (7th Cir. 2018)
- Wilson v. Williams, 961 F.3d 829 (6th Cir. 2020)
- Swain v. Junior, 961 F.3d 1276 (11th Cir. 2020)
- J.K.J. v. Polk Cty., 960 F.3d 367 (7th Cir. 2020) (en banc)
- United States v. Brown, 871 F.3d 532 (7th Cir. 2017)
- Thompson v. City of Chicago, 472 F.3d 444 (7th Cir. 2006)
- Tonyan v. Dunham's Athleisure Corp., 966 F.3d 681 (7th Cir. 2020)
- United States v. De La Torre, 940 F.3d 938 (7th Cir. 2019)