

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Darlene McDay, individually and as Executrix of the Estate of Dante Taylor, et al. v. Stewart Eckert, Superintendent, Wende Correctional Facility, et al.

McDay · No. 1:20-cv-233-JLS-JJM · Decided February 11, 2026

SUMMARY

This Report, Recommendation and Order concerns claims under 42 U.S.C. § 1983 arising from the alleged use of excessive force against incarcerated individual Dante Taylor and his subsequent suicide at Wende Correctional Facility. The court recommends denying the defendants’ motions for summary judgment because disputed testimony, medical evidence, and an investigative report create genuine issues of material fact regarding excessive force, failure to intervene, and supervisory liability. The court grants plaintiff’s motion to exclude one proposed expert and denies the remaining motions to exclude, subject to stated limitations.

CASE DETAILS

COURT	United States District Court for the Western District of New York
WRITING FOR THE COURT	Jeremiah J. McCarthy
JURISDICTION	United States District Court for the Western District of New York
DECIDED	February 11, 2026
DOCKET	1:20-cv-233-JLS-JJM
DISPOSITION	other
PROCEDURAL POSTURE	Report, recommendation, and order on defendants' motions for summary judgment and the parties' motions to exclude expert testimony in a 42 U.S.C. § 1983 action alleging Eighth Amendment excessive force, failure to intervene, failure to protect, and supervisory liability.
STANDARD OF REVIEW	Summary judgment is proper only when the record shows no genuine dispute of material fact and the movant is entitled to judgment as a matter of law. The evidence must be viewed in the light most favorable to the nonmovant, with all reasonable inferences drawn in that party's favor. Expert admissibility is assessed under Federal Rule of Evidence

	702 by a preponderance of the evidence, applying relevance and reliability principles.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Darlene McDay, individually and as Executrix of the Estate of Dante Taylor, et al. v. Stewart Eckert, Superintendent, Wende Correctional Facility, et al.

TOPICS

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QUESTIONS PRESENTED

1. Whether disputed testimony, medical evidence, photographs, and an internal investigative report created genuine issues of material fact on the Eighth Amendment excessive-force claims.
2. Whether the evidence created a genuine issue of material fact on correctional officers' liability for failing to intervene in or prevent the alleged excessive force.
3. Whether Superintendent Eckert could be liable under § 1983 for deliberate indifference to a known unreasonable risk of serious harm posed by Sergeant Lewalski and whether qualified immunity applied.
4. Whether the challenged expert testimony was admissible under Federal Rule of Evidence 702.

HOLDINGS

1. Summary judgment was inappropriate because conflicting testimony, medical evidence, photographs, and the DOCCS investigative report created genuine disputes about whether officers used force maliciously and sadistically rather than in a good-faith effort to maintain or restore discipline.
2. The evidence was sufficient to allow the excessive-force and failure-to-intervene claims to proceed because an officer may be personally involved by directly participating in an assault or by being present and failing to intercede despite a reasonable opportunity to do so.
3. Summary judgment was inappropriate on McDay's claim against Superintendent Eckert because the evidence created triable issues as to whether Lewalski posed an objectively unreasonable risk of serious harm, whether Eckert subjectively knew of that risk, and whether his response constituted reasonable measures to abate it.
4. Qualified immunity did not warrant summary judgment for Eckert because the Eighth Amendment right to reasonable protection from serious harm and the prohibition against failing to intervene in known excessive force were clearly established.
5. The court granted plaintiff's motion to exclude John Rourke's testimony, denied the other expert-exclusion motions subject to stated limitations, and permitted expert opinions where the witnesses were

qualified and the opinions were sufficiently relevant and reliable to be tested through cross-examination.

KEY QUOTATIONS

“This testimonial evidence, by itself, is sufficient to deny summary judgment as to the excessive force claim.”

“In a section 1983 claim, “there is no special rule for supervisory liability. Instead, a plaintiff must plead and prove ‘that each Government-official defendant, through the official’s own individual actions, has violated the Constitution’”.”

“Therefore, I conclude that the relevant constitutional right was clearly established and that qualified immunity does not apply.”

FACTUAL BACKGROUND

Dante Taylor, an inmate at Wende Correctional Facility, had a history of mental-health issues, substance abuse, suicidal ideation, and adverse reactions to synthetic cannabis known as K2. On October 6, 2017, correction officers responded to Taylor's cell after a reported medical emergency and restrained and removed him; inmate witnesses testified that officers struck him with batons and fists, while medical evidence documented extensive facial and other blunt-force injuries. Taylor was found hanging and unresponsive in his cell the next morning and was pronounced dead; the medical examiner ruled the death a suicide but noted injuries concerning for inflicted harm, and a DOCCS investigation substantiated allegations that officers assaulted Taylor and made materially false statements about the incident.

PROCEDURAL HISTORY

Plaintiffs brought claims arising from the October 6, 2017 use-of-force incident involving Dante Taylor and his suicide the following day while in DOCCS custody. The court previously dismissed Temple McDay's loss-of-intimate-association claim. The remaining defendants moved for summary judgment, and the parties moved to exclude expert testimony. Magistrate Judge Jeremiah J. McCarthy recommended denying defendants' summary-judgment motions, granting plaintiff's motion to exclude John Rourke, and denying the remaining expert-exclusion motions subject to specified limitations.

DISPOSITION

other

CASES CITED

- Ford v. Reynolds, 316 F.3d 351, 354 (2d Cir. 2003)
- Gummo v. Village of Depew, 75 F.3d 98, 107 (2d Cir. 1996)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986)
- Golisano v. Turek, 168 F. Supp. 3d 527, 530 (W.D.N.Y. 2015)
- Sims v. Artuz, 230 F.3d 14, 20 (2d Cir. 2000)
- Hudson v. McMillian, 503 U.S. 1, 7 (1992)

- *Mustafa v. Pelletier*, 2023 WL 7537625, *1 (2d Cir. 2023)
- *Wilkins v. Gaddy*, 559 U.S. 34, 39 (2010)
- *Wright v. Goord*, 554 F.3d 255, 268 (2d Cir. 2009)
- *Clarke v. Anderson*, 2012 WL 3292879, *5 (W.D.N.Y. 2012)
- *Benson v. Yaeger*, 2009 WL 1584324, *4 (W.D.N.Y. 2009)
- *Cortes v. MTA New York City Transit*, 802 F.3d 226, 232 (2d Cir. 2015)
- *Hill v. City of New York*, 2005 WL 3591719, *4 (E.D.N.Y. 2005)
- *Paul v. City of New York*, 2017 WL 4271648, *4 (S.D.N.Y. 2017)
- *Jeffreys v. Rossi*, 275 F. Supp. 2d 463, 474 (S.D.N.Y. 2003), *aff'd*, 426 F.3d 549 (2d Cir. 2005)
- *Hepburn v. City of New York*, 2025 WL 1640205, *13 (E.D.N.Y. 2025)
- *Piper v. City of Elmira*, 12 F. Supp. 3d 577, 596 (W.D.N.Y. 2014)
- *Seweid v. County of Nassau*, 2024 WL 693981, *18 (E.D.N.Y. 2024)
- *Tangreti v. Bachmann*, 983 F.3d 609, 618, 620 (2d Cir. 2020)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009)
- *Stephens v. Venettozzi*, 2016 WL 929268, *12, *21 (S.D.N.Y. 2016)
- *D.J. by Comfort v. Corning-Painted Post Area School District*, 722 F. Supp. 3d 148, 166 (W.D.N.Y. 2024)
- *Vega v. Semple*, 963 F.3d 259, 273 (2d Cir. 2020)
- *Farmer v. Brennan*, 511 U.S. 825, 832, 834-35 (1994)
- *Ramsay-Nobles v. Keyser*, 2019 WL 4383187, *12-13, *15 (S.D.N.Y. 2019)
- *Board of County Commissioners of Bryan County, Oklahoma v. Brown*, 520 U.S. 397, 410 (1997)
- *Salahuddin v. Goord*, 467 F.3d 263, 281 (2d Cir. 2006)
- *Mitchell v. Chappius*, 750 F. Supp. 3d 123, 150 (W.D.N.Y. 2024)
- *Smith v. New York State*, 2024 WL 4746554, *2 (2d Cir. 2024) (Summary Order)
- *Hayes v. N.Y.C. Department of Corrections*, 84 F.3d 614, 620 (2d Cir. 1996)
- *Linton v. Zorn*, 135 F.4th 19, 30 (2d Cir. 2025)
- *Pearson v. Callahan*, 555 U.S. 223, 236 (2009)
- *Lutz v. Kaleida Health*, 2023 WL 6617737, *1 (W.D.N.Y. 2023)
- *United States v. Jones*, *United States v. Jones*, 965 F.3d 149, 161 (2d Cir. 2020)
- *Nimely v. City of New York*, 414 F.3d 381, 395 (2d Cir. 2005)
- *Frye v. United States*, 293 F. 1013, 1014 (D.C. Cir. 1923)
- *Chen-Oster v. Goldman, Sachs & Co.*, 114 F. Supp. 3d 110, 115 (S.D.N.Y. 2015)
- *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 156 (1999)
- *Veleron Holding, B.V. v. Morgan Stanley*, 117 F. Supp. 3d 404, 443 (S.D.N.Y. 2015)
- *Choi v. Tower Research Capital LLC*, 2 F.4th 10, 20 (2d Cir. 2021)
- *Ramirez v. Chip Masters, Inc.*, 2014 WL 1248043, *9 (E.D.N.Y. 2014)
- *Hill v. City of New York*, 2007 WL 1989261, *8 (E.D.N.Y. 2007)
- *Katt v. City of New York*, 151 F. Supp. 2d 313, 326-27 (S.D.N.Y. 2001)

- *Wesolek v. Canadair Ltd.*, 838 F.2d 55, 58 (2d Cir. 1988)
- *Thomas v. Arn*, 474 U.S. 140, 155 (1985)
- *Patterson-Leitch Co. v. Massachusetts Municipal Wholesale Electric Co.*, 840 F.2d 985, 990-91 (1st Cir. 1988)

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