

SUPREME COURT OF COLORADO

Sebastian v. Douglas County

366 P.3d 601 (Colo. 2016) · Decided February 29, 2016

SUMMARY

The Colorado Supreme Court affirmed the denial of Fabian Sebastian's C.R.C.P. 60(b)(1) motion to set aside a dismissal for excusable neglect. The court held that Sebastian failed to allege a meritorious Fourth Amendment claim because his amended complaint asserted only legal conclusions regarding an intentional seizure by a police K-9, rather than sufficient factual allegations that the seizure resulted from means intentionally applied. The court declined to adopt the court of appeals' proposed “space” analysis for K-9 seizures.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Eid; Justice Hood; Justice Marquez; Justice Gabriel
JURISDICTION	Colorado
DECIDED	February 29, 2016
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for certiorari review of the Colorado Court of Appeals' affirmance of the denial of Sebastian's C.R.C.P. 60(b)(1) motion to set aside a judgment dismissing his complaint after he failed to respond timely to the County's motion to dismiss.
STANDARD OF REVIEW	The denial of relief under C.R.C.P. 60(b)(1) is reviewed for abuse of discretion; the court did not resolve whether review of the meritorious-claim factor is de novo because the result was the same under either standard.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Colorado; precedential.
PARTIES	Fabian Sebastian v. Douglas County, Colorado, Douglas County Sheriff's Office, David A. Weaver, Greg A. Black

TOPICS

[civil rights](#) [section 1983](#) [police misconduct](#) [civil procedure](#) [default](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Sebastian alleged a meritorious claim under C.R.C.P. 60(b)(1) by pleading that Deputy Black intentionally seized him in violation of the Fourth Amendment when the police dog released to pursue fleeing suspects returned and attacked him.
2. Whether an intentional seizure occurs whenever an officer releases a police dog into a particular space and the dog later apprehends an unintended person within that space.

HOLDINGS

1. Sebastian failed to allege a meritorious Fourth Amendment claim because his amended complaint alleged only legal conclusions concerning Deputy Black's intent and did not plead facts showing that the seizure resulted from means intentionally applied by a government actor.
2. The court declined to adopt the court of appeals' rule that an intentional seizure occurs whenever an officer releases a police dog into a particular space and the dog later apprehends anyone in that space.
3. Because Sebastian failed to allege a meritorious claim, denial of his Rule 60(b)(1) motion was proper on the narrow ground addressed by the court.

KEY QUOTATIONS

"We affirm the court of appeals, but on narrower grounds. We decline to adopt the appellate court's "space" analysis, and instead hold that Sebastian failed to allege a meritorious claim because his allegations regarding an intentional seizure consist of only legal conclusions." (606)

"Because Sebastian asserts only a legal conclusion regarding an intentional seizure, we hold that he failed to allege a meritorious claim under the Fourth Amendment for purposes of Rule 60(b)(1)." (607)

FACTUAL BACKGROUND

Sebastian was seated in the back seat of a vehicle stopped by Douglas County deputies, with his hands raised as ordered. Deputy Black released a find-and-bite police dog to chase two boys who had fled the vehicle and crossed a nearby fence. The dog failed to apprehend the boys, returned to the vehicle, and attacked Sebastian, causing injuries to his left upper arm, elbow, and forearm.

PROCEDURAL HISTORY

Sebastian filed a 42 U.S.C. § 1983 action alleging that a Douglas County Sheriff's deputy's police dog unreasonably seized and injured him. After Sebastian failed to timely respond to the County's motion to dismiss, the district court dismissed the complaint. The district court denied Sebastian's Rule 60(b)(1) motion, the court of appeals initially remanded for a complete three-factor analysis under *Goodman*, and the district court again denied relief on remand. The court of appeals affirmed, and the Colorado Supreme Court granted certiorari to review whether Sebastian had alleged a meritorious Fourth Amendment claim.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion; the Supreme Court affirmed the court of appeals on the narrow ground that Sebastian failed to allege a meritorious claim.

CASES CITED

- Goodman Associates, LLC v. Mountain Properties, LLC, 222 P.3d 310 (Colo. 2010)
- Buckmiller v. Safeway Stores, Inc., 727 P.2d 1112 (Colo. 1986)
- Brower v. County of Inyo, 489 U.S. 593 (1989)
- Sebastian v. Douglas County, 2013 COA 132
- Industrial Claim Appeals Office v. Zarlingo, 57 P.3d 736 (Colo. 2002)
- Craig v. Rider, 651 P.2d 397 (Colo. 1982)
- Rodriguez v. City of Fresno, 819 F. Supp. 2d 937 (E.D. Cal. 2011)
- Vathekan v. Prince George's County, 154 F.3d 173 (4th Cir. 1998)
- Brown v. Whitman, 651 F. Supp. 2d 1216 (D. Colo. 2009)
- Apodaca v. Rio Arriba County Sheriff's Department, 905 F.2d 1445 (10th Cir. 1990)
- Hill v. California, 401 U.S. 797 (1971)
- Maryland v. Garrison, 480 U.S. 79 (1987)