

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, TAMPA DIVISION

Eliot Zeke Ramsberger v. Jonathan Charles Avey, St. Petersburg
Police Department, and City of St. Petersburg

Ramsberger · No. 8:25-cv-581-KKM-AAS · Decided January 20, 2026

SUMMARY

The court partially granted defendants’ motion to dismiss a pro se 42 U.S.C. § 1983 action arising from a police canine attack. It dismissed without prejudice the Fourth Amendment excessive-force claim against Officer Avey and the municipal-liability claims against the City of St. Petersburg, allowing amendment, because the allegations lacked sufficient factual detail and did not overcome qualified immunity or state a municipal-liability claim. The claims against the St. Petersburg Police Department were dismissed with prejudice because the department lacks capacity to be sued under Florida law.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Tampa Division
WRITING FOR THE COURT	Kathryn Kimball Mizelle
JURISDICTION	United States District Court for the Middle District of Florida, Tampa Division
DECIDED	January 20, 2026
DOCKET	8:25-cv-581-KKM-AAS
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the plaintiff’s Second Amended Complaint asserting Fourth Amendment excessive-force and municipal-liability claims under 42 U.S.C. § 1983.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and construes them in the plaintiff’s favor, considering the complaint, documents central to or referenced in it, and judicially noticeable matters. At the qualified-immunity stage, the court examines the pleadings to determine whether the plaintiff alleged a violation of a clearly established right.

PRECEDENTIAL VALUE	nonprecedential
PARTIES	Eliot Zeke Ramsberger v. Jonathan Charles Avey, St. Petersburg Police Department, City of St. Petersburg

TOPICS

section 1983 qualified immunity motions to dismiss police misconduct municipal liability

PRACTICE AREAS

civil rights constitutional law civil procedure municipal liability police misconduct

QUESTIONS PRESENTED

1. Whether the Second Amended Complaint pleaded sufficient facts to state a Fourth Amendment excessive-force claim against Officer Avey and overcome qualified immunity.
2. Whether the complaint sufficiently pleaded municipal liability against the City of St. Petersburg based on alleged policies, customs, failure to train, failure to supervise, or failure to intervene.
3. Whether the St. Petersburg Police Department is a legal entity with capacity to be sued under Florida law.

HOLDINGS

1. The complaint failed to state an excessive-force claim against Officer Avey or overcome qualified immunity because its allegations were too vague and conclusory to permit evaluation of whether the canine deployment and duration of the bite were objectively unreasonable or violated a clearly established right.
2. The municipal-liability claims against the City were inadequately pleaded and were dismissed without prejudice because the complaint failed to allege a predicate constitutional violation and failed to identify with sufficient specificity a policy, custom, deliberate indifference, or causal connection.
3. The St. Petersburg Police Department lacks capacity to sue or be sued under Florida law and is not a legal entity subject to suit under § 1983; the claims against it were therefore dismissed with prejudice.
4. The court could consider the bodycam footage under the incorporation-by-reference doctrine because it was central to the claims and its authenticity was not disputed.

KEY QUOTATIONS

“Ramsberger’s allegations are too vague to state a claim for excessive force and defeat qualified immunity.”
(at 9)

“Because Ramsberger fails to plead a predicate constitutional violation, there can be no municipal liability.”
(at 13)

“Accordingly, the claims against the SPPD are dismissed with prejudice.” (at 18)

FACTUAL BACKGROUND

On March 10, 2023, Ramsberger was involved in a single-vehicle accident in St. Petersburg, Florida, briefly left the scene, and later returned. Officer Avey and a police canine located him in a residential neighborhood; Avey ordered him to get on the ground and the canine bit his leg for nearly a minute while Ramsberger was on the ground. Ramsberger alleged that he was unarmed, nonthreatening, and not resisting, and that Avey failed to recall the canine promptly. Bodycam footage showed the search, the canine attack, Avey's commands, Ramsberger's continued position on the ground, and the eventual restraint and release of the canine.

PROCEDURAL HISTORY

Ramsberger filed a § 1983 action two years after a police canine attack arising from a single-vehicle accident. He filed a Second Amended Complaint asserting an excessive-force claim against Officer Avey and municipal-liability claims against the City and the St. Petersburg Police Department. The court granted the motion to dismiss in part, dismissing the claims against Avey and the City without prejudice and with leave to amend, and dismissing the claims against the Police Department with prejudice.

DISPOSITION

other

CASES CITED

- Swinford v. Santos, 121 F.4th 179, 187-88 (11th Cir. 2024)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 557, 570 (2007)
- Saunders v. Duke, 766 F.3d 1262, 1266-70 (11th Cir. 2014)
- Randall v. Scott, 610 F.3d 701, 709-10 (11th Cir. 2010)
- Pielage v. McConnell, 516 F.3d 1282, 1284 (11th Cir. 2008)
- La Grasta v. First Union Securities, Inc., 358 F.3d 840, 845 (11th Cir. 2004)
- Twombly, 550 U.S. at 544
- Vinyard v. Wilson, 311 F.3d 1340, 1346 (11th Cir. 2002)
- Cottone v. Jenne, 326 F.3d 1352, 1357 (11th Cir. 2003)
- Jones v. Fransen, 857 F.3d 843, 851 (11th Cir. 2017)
- O'Rourke v. Hayes, 378 F.3d 1201, 1206 (11th Cir. 2004)
- Griffin Industries, Inc. v. Irvin, 496 F.3d 1189, 1199 (11th Cir. 2007)
- Crenshaw v. Lister, 556 F.3d 1283, 1290 (11th Cir. 2009)
- Hadley v. Gutierrez, 526 F.3d 1324, 1329 (11th Cir. 2008)
- Brown v. City of Huntsville, 608 F.3d 724, 738 (11th Cir. 2010)
- Graham v. Connor, 490 U.S. 386, 396 (1989)
- Johnson v. City of Miami Beach, 18 F.4th 1267, 1272-73 (11th Cir. 2021)
- Robinson v. City of Huntsville, No. 21-13979, 2022 WL 3867584, at *5 (11th Cir. Aug. 30, 2022)

- *Stephens v. DeGiovanni*, 852 F.3d 1298, 1321 (11th Cir. 2017)
- *Edwards v. Shanley*, 666 F.3d 1289, 1292 (11th Cir. 2012)
- *Cooper v. Brown*, 844 F.3d 517, 524-25 (5th Cir. 2016)
- *Monell v. Department of Social Services*, 436 U.S. 658, 691 (1978)
- *Plowright v. Miami-Dade County*, 102 F.4th 1358, 1370-71 (11th Cir. 2024)
- *Chabad Chayil, Inc. v. School Board of Miami-Dade County*, 48 F.4th 1222, 1229 (11th Cir. 2022)
- *Trammell v. Thomason*, 335 F. App'x 835, 845 (11th Cir. 2009)
- *McCormick v. City of Fort Lauderdale*, 333 F.3d 1234, 1243 n.13 (11th Cir. 2003) (per curiam)
- *Faulkner v. Monroe County Sheriff's Department*, 523 F. App'x 696, 701 (11th Cir. 2013)
- *Silberman v. Miami Dade Transit*, 927 F.3d 1123, 1133 (11th Cir. 2019)

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