

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW
HAMPSHIRE

Frank Staples and Kathleen Bussiere v. Governor, NH, State of et al.

Staples · No. 24-cv-331-LM-TSM · Decided March 30, 2026

SUMMARY

The United States District Court for the District of New Hampshire approved a magistrate judge’s Report and Recommendation in part, modifying the basis for dismissal of the plaintiffs’ individual-capacity claims against the Governor and Attorney General to qualified immunity. The court granted the defendants’ motion to dismiss, denied the motion for a preliminary injunction, and directed the clerk to enter judgment and close the case.

CASE DETAILS

COURT	United States District Court for the District of New Hampshire
JURISDICTION	United States District Court for the District of New Hampshire
DECIDED	March 30, 2026
DOCKET	24-cv-331-LM-TSM
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiffs objected to a magistrate judge's Report and Recommendation addressing defendants' motion to dismiss. The district court approved the Report and Recommendation except that it dismissed certain individual-capacity claims on qualified-immunity grounds rather than for failure to state a claim. The court also ruled on plaintiffs' motion for a preliminary injunction.
STANDARD OF REVIEW	At the motion-to-dismiss stage, the court may decide qualified immunity when the facts alleged do not establish a violation of a clearly established constitutional right. The court reviewed the Report and Recommendation after plaintiffs' objection.
PRECEDENTIAL VALUE	Unknown; district court order with no reported citation.
PARTIES	Frank Staples, Kathleen Bussiere v. Governor, NH, State of New Hampshire, et al.

TOPICS

[motions to dismiss](#)

[qualified immunity](#)

[section 1983](#)

[fourteenth amendment](#)

[civil procedure](#)

PRACTICE AREAS

civil rights

constitutional law

federal civil procedure

remedies

QUESTIONS PRESENTED

1. Whether qualified immunity required dismissal of plaintiffs' individual-capacity constitutional claims against Governor Sununu and Attorney General Formella.
2. Whether qualified immunity may be resolved at the motion-to-dismiss stage based on the facts alleged in the complaint.
3. Whether plaintiffs were entitled to a preliminary injunction.

HOLDINGS

1. The individual-capacity claims against Governor Sununu and Attorney General Formella arising from the October 13, 2021 incident were dismissed on qualified-immunity grounds because plaintiffs failed to demonstrate that the alleged constitutional violations involved clearly established rights.
2. Qualified immunity may be resolved on a motion to dismiss when the facts alleged by the plaintiff do not establish a violation of a constitutional right that was clearly established at the time of the alleged misconduct.
3. Plaintiffs' motion for a preliminary injunction was denied.

KEY QUOTATIONS

“The plaintiff bears the burden of demonstrating that the law was clearly established” (790 F.3d at 77)

“the facts that a plaintiff has alleged” (657 F.3d at 47)

FACTUAL BACKGROUND

Plaintiffs asserted individual-capacity claims against Governor Chris Sununu and Attorney General John Formella arising from an October 13, 2021 incident under the First, Fourth, and Fourteenth Amendments. They also sought a preliminary injunction. The court assumed, for purposes of qualified-immunity analysis, that plaintiffs plausibly alleged constitutional violations, but concluded they had not shown that the alleged violations involved clearly established rights.

PROCEDURAL HISTORY

Magistrate Judge Talesha L. Saint-Marc issued a Report and Recommendation dated February 12, 2026. After considering plaintiffs' objection, the district court approved the recommendation in all respects except the stated basis for dismissal of the individual-capacity claims against Governor Sununu and Attorney General Formella arising from the October 13, 2021 incident. The court granted defendants' motion to dismiss, denied the preliminary-injunction motion, directed entry of judgment, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Mitchell v. Miller, 790 F.3d 73, 77-78 (1st Cir. 2015)
- Haley v. City of Boston, 657 F.3d 39, 47 (1st Cir. 2011)
- Pearson v. Callahan, 555 U.S. 223, 232 (1984)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF NEW HAMPSHIRE Frank Staples and Kathleen Bussiere Case No. 24-cv-331-LM-TSM v. Governor, NH, State of et al. ORDER After due consideration of the objection filed, I herewith approve the Report and Recommendation (doc. no. 85) of Magistrate Judge Talesha L. Saint-Marc dated February 12, 2026 in every respect except one.

I dismiss plaintiffs' individual capacity claims against Governor Sununu and Attorney General Formella stemming from the October 13, 2021 incident arising under the First, Fourth, and Fourteenth Amendments on qualified immunity grounds instead of for failure to state a claim upon which relief may be granted. See, e.g., Mitchell v. Miller, 790 F.3d 73, 77-78 (1st Cir.

2015). Even assuming plaintiffs have plausibly alleged constitutional violations against Governor Sununu and Attorney General Formella, plaintiffs failed to demonstrate those violations were of clearly established rights. Id. at 77 ("The plaintiff bears the burden of demonstrating that the law was clearly established...."); see also doc. no. 85 at 2 & n.3 (noting that plaintiffs failed to file an objection to the motion to dismiss).

And contrary to plaintiffs' arguments in their objection to the R&R (doc. no. 88 at 8), qualified immunity may be decided at the motion to dismiss stage when "the facts that a plaintiff has alleged" do not make out a violation of a constitutional right that was clearly established at the time of the alleged misconduct. Haley v. City of Boston, 657 F.3d 39, 47 (1st Cir.

2011) (quoting Pearson v. Callahan, 555 U.S. 223, 232 (1984)). The defendants' motion to dismiss (doc. no. 60) is granted. Plaintiff Staples's motion for preliminary injunction (doc. no. 66) is denied. The clerk shall enter judgment and close the case. United State District Judge Date: March 30, 2026 cc: Frank Staples, pro se Kathleen Bussiere, pro se Counsel of Record