

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Anthony Harry v. Jeremy Rodriguez; Diona Velez

Anthony Harry v. Jeremy Rodriguez and Diona Velez, No. 22-cv-03995 (NCM) (SDE) (E.D.N.Y. Feb. 24, 2026)
· No. 22-cv-03995 (NCM) (SDE) · Decided February 24, 2026

SUMMARY

The Eastern District of New York granted defendants’ motion for summary judgment in Anthony Harry’s action alleging that correctional officers retaliated against him and violated his First and Eighth Amendment rights through a strip search, and that one officer failed to intervene. The court held that a broad general release signed by Harry in a prior settlement unambiguously barred claims arising before September 3, 2020, including the November 6, 2019 incident. The court also concluded that Harry failed to exhaust available administrative remedies under the Prison Litigation Reform Act.

CASE DETAILS

COURT	United States District Court for the Eastern District of New York
WRITING FOR THE COURT	Natasha C. Merle
JURISDICTION	United States District Court for the Eastern District of New York
DECIDED	February 24, 2026
DOCKET	22-cv-03995 (NCM) (SDE)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment in a prisoner civil-rights action alleging First and Eighth Amendment violations arising from a retaliatory strip search and failure to intervene.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views the evidence in the light most favorable to the nonmoving party, but the nonmovant must identify specific evidence creating a genuine issue for trial.
PRECEDENTIAL VALUE	unpublished district-court opinion; nonprecedential
PARTIES	Anthony Harry v. Jeremy Rodriguez, Diona Velez

TOPICS

summary judgment

prisoners rights

civil rights

first amendment

cruel and unusual punishment

PRACTICE AREAS

civil rights

constitutional law

prisoner litigation

civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff's late Rule 56.1 counterstatement required the court to deem defendants' factual assertions admitted.
2. Whether defendants could assert and enforce the general release at the summary-judgment stage despite not pleading it earlier.
3. Whether the general release unambiguously released plaintiff's First and Eighth Amendment claims arising from the November 6, 2019 strip search.
4. Whether plaintiff exhausted available administrative remedies as required by the Prison Litigation Reform Act.
5. Whether defendants were entitled to summary judgment on the merits of plaintiff's Eighth Amendment claim and on his claim for compensatory damages.

HOLDINGS

1. A pro se plaintiff's failure to submit a Rule 56.1 counterstatement with an earlier pre-motion conference response did not require the court to deem defendants' factual assertions admitted where plaintiff later filed a counterstatement, defendants responded to it, and defendants identified no prejudice.
2. The court could entertain defendants' general-release affirmative defense at the summary-judgment stage because the delay did not establish bad faith, dilatory motive, undue prejudice, or a need for additional discovery.
3. The general release was clear and unambiguous and released the City of New York and its employees from plaintiff's civil-rights claims arising from events occurring through September 3, 2020, including the November 6, 2019 strip-search claims.
4. Plaintiff's failure to file a formal grievance concerning the strip search meant that he failed to exhaust available administrative remedies as required by the PLRA, independently entitling defendants to summary judgment.

KEY QUOTATIONS

“This language precludes plaintiff—who was represented by counsel when he signed the General Release—from bringing claims that accrued through September 3, 2020.” (at 12)

“Because plaintiff failed to file a formal grievance slip, he did not avail himself of all remedies available as required by the PLRA.” (at 15)

FACTUAL BACKGROUND

While incarcerated at a DOC facility on Rikers Island, Harry complained about Correctional Officer Velez's use of mace against inmates and provided information implicating Velez and Rodriguez. On November 6, 2019, Rodriguez and Velez subjected Harry to a strip search; Rodriguez directed the search while Velez watched from a control room and laughed, and neither officer physically touched Harry. Harry later signed a broad general release in a separate personal-injury settlement that released the City of New York and its employees from civil-rights claims arising from events occurring through September 3, 2020. He did not file a formal inmate grievance concerning the strip search.

PROCEDURAL HISTORY

Harry commenced the action on August 29, 2022, and filed a Second Amended Complaint on September 13, 2023. After discovery, defendants moved for summary judgment on June 5, 2025. The court accepted plaintiff's late Rule 56.1 counterstatement in light of his pro se status, but granted defendants' motion because the claims were barred by a general release and, independently, because plaintiff failed to exhaust available administrative remedies under the PLRA.

DISPOSITION

other

CASES CITED

- *Curtis v. Cenlar FSB*, 654 F. App'x 17, 20 (2d Cir. 2016)
- *Borley v. United States*, 22 F.4th 75, 78 (2d Cir. 2021)
- *Dolan v. Cassella*, 543 F. App'x 90, 90-91 (2d Cir. 2013)
- *Miller v. Terrillion*, 436 F. Supp. 3d 598, 600 (E.D.N.Y. 2020)
- *Fabrikant v. French*, 691 F.3d 193, 205 (2d Cir. 2012)
- *Brown v. City of New York*, No. 21-cv-04632, 2023 WL 2908661, at *5 (S.D.N.Y. Jan. 30, 2023)
- *T.Y. v. N.Y.C. Dep't of Educ.*, 584 F.3d 412, 418 (2d Cir. 2009)
- *Vasquez v. Reilly*, No. 15-cv-09528, 2018 WL 2768648, at *1 n.1 (S.D.N.Y. June 8, 2018)
- *Taylor & Fulton Packing, LLC v. Marco Int'l Foods, LLC*, No. 09-cv-02614, 2011 WL 6329194, at *4 (E.D.N.Y. Dec. 16, 2011)
- *Holtz v. Rockefeller & Co., Inc.*, 258 F.3d 62, 74 (2d Cir. 2001)
- *Houston v. Teamsters Loc. 210, Affiliated Health & Ins. Fund-Vacation Fringe Benefit Fund*, 27 F. Supp. 3d 346, 348-49 (E.D.N.Y. 2014)
- *Wade v. Montas*, No. 19-cv-02687, 2023 WL 5510599, at *3 (E.D.N.Y. Aug. 25, 2023)
- *Saks v. Franklin Covey Co.*, 316 F.3d 337, 350-51 (2d Cir. 2003)
- *CWS Invs., Inc. v. Manners*, No. 23-cv-02188, 2025 WL 2161240, at *4 (E.D.N.Y. Mar. 8, 2025)
- *Caraballo v. City of New York*, No. 18-cv-10335, 2023 WL 2689725, at *3-5 (S.D.N.Y. Mar. 29, 2023)
- *Liverpool v. Davis*, No. 17-cv-03875, 2020 WL 7398745, at *3 (S.D.N.Y. Dec. 17, 2020)
- *Soley v. County of Nassau*, No. 18-cv-00377, 2021 WL 1554834, at *5 (E.D.N.Y. Apr. 20, 2021)

- *Reyes v. Phoenix Beverages, Inc.*, 207 F. Supp. 3d 206, 217 (E.D.N.Y. 2016)
- *Ruotolo v. City of New York*, 514 F.3d 184, 192 (2d Cir. 2008)
- *Collins v. Harrison-Bode*, 303 F.3d 429, 433 (2d Cir. 2002)
- *Mateo v. Carinha*, 799 F. App'x 51, 52-53 (2d Cir. 2020)
- *Crane Co. v. Coltec Indus. Inc.*, No. 98-cv-08838, 1999 WL 38251, at *2 (S.D.N.Y. Jan. 28, 1999), *aff'd*, 171 F.3d 733 (2d Cir. 1999)
- *Shadlich v. Rongrant Assocs., LLC*, 887 N.Y.S.2d 228, 229 (2d Dep't 2009)
- *Hong v. Renval Constr., LLC*, 194 N.Y.S.3d 541, 542 (2d Dep't 2023)
- *Valdiviezo v. Greer*, 787 F. App'x 48, 48-49 (2d Cir. 2019)
- *Wade v. Montas*, No. 19-cv-02687, 2023 WL 5510599, at *2-3 (E.D.N.Y. Aug. 25, 2023)
- *Tromp v. City of New York*, 465 F. App'x 50, 52 (2d Cir. 2012)
- *A.A. Truck Renting Corp. v. Navistar, Inc.*, 916 N.Y.S.2d 194, 196 (2d Dep't 2011)
- *Alexander v. City of New York*, No. 24-cv-08084, 2025 WL 3640231, at *2 (S.D.N.Y. Dec. 16, 2025)
- *Jones v. Bock*, 549 U.S. 199, 212 (2007)
- *Massey v. Michele*, No. 20-cv-07621, 2022 WL 1493269, at *3 (S.D.N.Y. May 11, 2022)
- *House v. City of New York*, No. 18-cv-06693, 2020 WL 6891830, at *9 (S.D.N.Y. Nov. 24, 2020)
- *Alicea v. City of New York*, No. 16-cv-07347, 2020 WL 1528478, at *3 (S.D.N.Y. Mar. 31, 2020)
- *Ross v. Blake*, 578 U.S. 632, 644 (2016)
- *Vidro v. Erfe*, No. 18-cv-00567, 2019 WL 4738896, at *8 (D. Conn. Sept. 26, 2019)
- *Zapata v. Stefanski*, No. 24-cv-03785, 2026 WL 292148, at *3 n.1 (E.D.N.Y. Feb. 4, 2026)