

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Bowen ex rel. Estate of Bowen v. Warden, Baldwin State Prison

826 F.3d 1312 (11th Cir. 2016) · No. 15-11109 · Decided June 22, 2016

SUMMARY

The Eleventh Circuit reviewed claims under 42 U.S.C. § 1983 alleging that prison officials violated the Eighth Amendment by housing Terrance Bowen with a mentally ill inmate who later beat him to death. The court held that the allegations against Deputy Warden Doug Underwood and Corrections Officer Cager Edward Davis plausibly established deliberate indifference to a substantial risk of serious harm and that qualified immunity could not be resolved at the pleading stage. It reversed the dismissal of those claims and remanded, while affirming the judgment in all other respects.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Kenneth F. Ripple; Ed Carnes; Jill Pryor
JURISDICTION	Federal
DECIDED	June 22, 2016
DOCKET	15-11109
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The administrator of a deceased prisoner's estate appealed the dismissal under Federal Rule of Civil Procedure 12(b)(6) of 42 U.S.C. § 1983 Eighth Amendment failure-to-protect claims against prison officials in their individual capacities. The appeal challenged dismissal of claims against Deputy Warden Doug Underwood and Corrections Officer Cager Edward Davis; dismissal of the supervisory claim against Warden Humphrey was not challenged.
STANDARD OF REVIEW	De novo review of dismissal under Rule 12(b)(6), accepting the second amended complaint's allegations as true and construing them in the light most favorable to the administrator.
PRECEDENTIAL VALUE	Published Eleventh Circuit precedent
PARTIES	Walker D. Bowen, as administrator of the Estate of Terrance Desmond Bowen v. Warden, Baldwin State Prison, Doug Underwood, Cager Edward Davis

TOPICS

prisoners rights

section 1983

cruel and unusual punishment

qualified immunity

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the second amended complaint plausibly alleged that Deputy Warden Underwood and Officer Davis were deliberately indifferent to a substantial risk that Merkerson would seriously harm Bowen, in violation of the Eighth Amendment.
2. Whether the alleged constitutional right was clearly established in March 2010 so as to defeat qualified immunity at the pleading stage.

HOLDINGS

1. The complaint plausibly alleged an Eighth Amendment violation because it asserted that Underwood and Davis knew of facts showing a substantial and specific risk posed by Merkerson, including his severe mental illness, violent tendencies, recent assault of a cellmate, segregation placement, and housing with Bowen in violation of the prison's placement guideline, yet failed to respond reasonably.
2. Underwood and Davis were not entitled to qualified immunity at the pleading stage because Eleventh Circuit precedent clearly established by March 2010 that failing to investigate or take action to mitigate a substantial risk posed by a visibly violent, mentally unstable inmate could constitute deliberate indifference to an inmate's Eighth Amendment rights.

KEY QUOTATIONS

“Accordingly, to state an Eighth Amendment claim premised on a failure to prevent harm, a plaintiff must allege facts showing that: (1) a substantial risk of serious harm existed; (2) the defendants were deliberately indifferent to that risk, i.e., they both subjectively knew of the risk and also disregarded it by failing to respond in” (slip op. at 12-13)

“We conclude, therefore, that the administrator has set forth in his second amended complaint sufficient facts showing that Deputy Warden Underwood and Officer Davis were both “aware of facts from which the inference could be drawn that a substantial risk of serious harm exist[ed], and . . . also dr[e]w the inference.”” (slip op. at 24)

“Deputy Warden Underwood and Officer Davis were therefore on notice in March 2010 that “the law of this Circuit, as expressed in Cottone, clearly established that the defendants’ total failure to investigate—or take any other action to mitigate—the substantial risk of serious harm that [Merkerson] posed to [Mr. Bowen] constituted unconstitutional deliberate indifference to [Mr. Bowen’s] Eighth Amendment rights.”” (slip op. at 26)

FACTUAL BACKGROUND

Terrance Bowen, a prisoner at Baldwin State Prison, was housed with Carl Merkerson, a Level III mental-health inmate with severe paranoid schizophrenia, violent delusions, and a recent high-level assault against a cellmate. Prison guidelines allegedly required Merkerson to be housed alone, but Bowen was placed in his small, difficult-to-monitor cell. Deputy Warden Underwood and Officer Davis allegedly knew of Merkerson's mental illness, violent history, segregation status, and the double-celling arrangement; Merkerson later beat Bowen, who died from his injuries.

PROCEDURAL HISTORY

The administrator filed the § 1983 action in the Middle District of Georgia and amended the complaint twice after limited discovery. The district court dismissed the claims against Warden Humphrey, Underwood, and Davis, concluding that the allegations did not plausibly establish subjective awareness of a substantial risk of serious harm and that the officials were entitled to qualified immunity. The Eleventh Circuit reversed as to Underwood and Davis and affirmed in all other respects.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings on the claims against Deputy Warden Doug Underwood and Corrections Officer Cager Edward Davis. The district court's judgment was affirmed in all other respects.

CASES CITED

- *Murphy v. DCI Biologicals Orlando, LLC*, 797 F.3d 1302, 1305 (11th Cir. 2015)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)
- *Randall v. Scott*, 610 F.3d 701, 707 n.2, 709 (11th Cir. 2010)
- *Hoeftling v. City of Miami*, 811 F.3d 1271, 1276 (11th Cir. 2016)
- *Caldwell v. Warden, FCI Talladega*, 748 F.3d 1090, 1098-1103 (11th Cir. 2014)
- *Perez v. Suszczyński*, 809 F.3d 1213, 1218, 1221 (11th Cir. 2016)
- *Helling v. McKinney*, 509 U.S. 25, 31 (1993)
- *Farmer v. Brennan*, 511 U.S. 825, 832-34, 837, 842-43, 848 (1994)
- *Hudson v. Palmer*, 468 U.S. 517, 526-27 (1984)
- *Zatler v. Wainwright*, 802 F.2d 397, 400 (11th Cir. 1986)
- *Carter v. Galloway*, 352 F.3d 1346, 1348-50 (11th Cir. 2003)
- *Cottone v. Jenne*, 326 F.3d 1352, 1355-59 (11th Cir. 2003)
- *Rodriguez v. Secretary for Department of Corrections*, 508 F.3d 611, 620-22 (11th Cir. 2007)
- *Taylor v. Adams*, 221 F.3d 1254, 1259 (11th Cir. 2000)
- *Hott v. Hennepin County, Minnesota*, 260 F.3d 901, 906-07 (8th Cir. 2001)

- Williams v. Benjamin, 77 F.3d 756, 766 & n.5 (4th Cir. 1996)
- Goodman v. Kimbrough, 718 F.3d 1325, 1332, 1334 (11th Cir. 2013)
- Franklin v. Curry, 738 F.3d 1246, 1251 (11th Cir. 2013)
- Hope v. Pelzer, 536 U.S. 730, 741 (2002)
- McClish v. Nugent, 483 F.3d 1231, 1237 (11th Cir. 2007)
- Oladeinde v. City of Birmingham, 230 F.3d 1275, 1289 (11th Cir. 2000)

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