

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

McCowan v. McKeown

McCowan · No. 2:21-cv-0369-DAD-CKD P · Decided March 6, 2025

SUMMARY

The document is findings and recommendations addressing defendants’ motion for summary judgment in a 42 U.S.C. § 1983 action brought by a state prisoner. The court recommends granting summary judgment on the Eighth Amendment excessive-force and deliberate-indifference claims, concluding that plaintiff failed to establish a genuine dispute of material fact. The court does not reach defendants’ qualified-immunity argument.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney, United States Magistrate Judge
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 6, 2025
DOCKET	2:21-cv-0369-DAD-CKD P
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a 42 U.S.C. § 1983 prisoner civil-rights action alleging Eighth Amendment excessive force and deliberate indifference to serious medical needs. Defendants moved for summary judgment. The magistrate judge issued findings and recommendations that the motion be granted and the case closed, subject to district-judge review and objections.
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 viewed the evidence in the light most favorable to plaintiff and considered plaintiff's verified allegations and declarations to the extent they were based on personal knowledge and otherwise admissible.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Raymond McCowan v. L. McKeown, Stephens-Merrill, McAllister, Ota, Harris

TOPICS

prisoners rights

section 1983

summary judgment

cruel and unusual punishment

civil rights

PRACTICE AREAS

civil rights litigation

prisoner litigation

constitutional law

federal civil procedure

QUESTIONS PRESENTED

1. Whether defendants McKeown and Stephens-Merrill used excessive force in violation of the Eighth Amendment by deploying pepper spray during an ongoing inmate fight.
2. Whether defendants McAllister, Ota, and Harris were deliberately indifferent to plaintiff's serious medical needs by delaying or providing allegedly inadequate treatment for his knee injuries.
3. Whether defendants were entitled to summary judgment because plaintiff failed to produce evidence creating a genuine dispute of material fact.
4. Whether the court needed to decide defendants' qualified-immunity argument after resolving the claims on the merits.

HOLDINGS

1. The undisputed record did not permit a reasonable jury to find that McKeown or Stephens-Merrill applied pepper spray maliciously or sadistically for the purpose of causing harm. The use of force was reasonable in response to an ongoing inmate fight after verbal orders failed, so defendants were entitled to summary judgment on the excessive-force claims.
2. Plaintiff failed to create a genuine dispute of material fact that McAllister, Ota, or Harris purposefully disregarded a substantial risk of serious harm. Their treatment decisions, including telephone triage, ibuprofen, follow-up care, x-rays, crutches, later examinations, imaging, braces, and referral, did not amount to deliberate indifference.
3. Defendants met their initial burden and plaintiff failed to submit evidence establishing a genuine dispute of material fact on any remaining claim; summary judgment should therefore be granted.

KEY QUOTATIONS

“whenever prison officials stand accused of using excessive physical force in violation of the Cruel and Unusual Punishments Clause, the core judicial inquiry is... whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm.” (at 9)

“The motion should be granted because plaintiff fails to raise a genuine issue of material fact for trial on any remaining excessive force or deliberate indifference claim.” (at 1)

FACTUAL BACKGROUND

On March 1, 2018, plaintiff, a California state prisoner, was fighting with another inmate who was holding plaintiff in a choke hold and punching him. Correctional officers McKeown and Stephens-Merrill ordered the inmates to stop, and pepper spray was deployed; plaintiff alleged that the spray contributed to a fall and left-knee injury. Plaintiff later alleged that medical staff delayed or inadequately provided treatment, while defendants presented evidence that plaintiff received telephone triage, ibuprofen, a follow-up evaluation, x-rays, crutches, later examinations, MRIs, braces, and an orthopedic referral.

PROCEDURAL HISTORY

Plaintiff filed a second amended complaint on May 23, 2022. After screening under 28 U.S.C. § 1915A(a), the case proceeded on an excessive-force claim against McKeown and Stephens-Merrill and deliberate-indifference claims against McAllister, Ota, and Harris. Defendants moved for summary judgment on July 25, 2024; plaintiff opposed and defendants replied. The magistrate judge recommended granting summary judgment on all remaining claims without reaching qualified immunity.

DISPOSITION

other

CASES CITED

- In re Oracle Corp. Sec. Litig., 627 F.3d 376, 387 (9th Cir. 2010)
- Celotex Corp. v. Catrett, 477 U.S. 317, 322-25 (1986)
- Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- T.W. Elec. Serv., Inc. v. Pacific Elec. Contractors Ass'n, 809 F.2d 626, 630 (9th Cir. 1987)
- First Nat'l Bank v. Cities Serv. Co., 391 U.S. 253, 288-89 (1968)
- Walls v. Central Contra Costa Transit Auth., 653 F.3d 963, 966 (9th Cir. 2011)
- Richards v. Nielsen Freight Lines, 810 F.2d 898, 902 (9th Cir. 1987)
- Wilhelm v. Rotman, 680 F.3d 1113, 1121 (9th Cir. 2012)
- Hebbe v. Pliler, 627 F.3d 338, 342 (9th Cir. 2010)
- Jones v. Blanas, 393 F.3d 918, 923 (9th Cir. 2004)
- Lopez v. Smith, 203 F.3d 1122, 1131-32 & n.14 (9th Cir. 2000)
- Flaherty v. Warehousemen, Garage & Service Station Employees' Local Union No. 334, 574 F.2d 484, 486 n.2 (9th Cir. 1978)
- Burch v. Regents of Univ. of California, 433 F. Supp. 2d 1110, 1119 (E.D. Cal. 2006)
- Soremekun v. Thrifty Payless, Inc., 509 F.3d 978, 984 (9th Cir. 2007)
- Hudson v. McMillan, 503 U.S. 1, 7 (1992)
- Whitley v. Albers, 475 U.S. 312, 327 (1986)
- Clement v. Gomez, 298 F.3d 898, 903-04 (9th Cir. 2002)
- DeSpain v. Uphoff, 264 F.3d 965, 978 (10th Cir. 2001)

- *Avina v. United States*, 681 F.3d 1127, 1130 (9th Cir. 2012)
- *Saucier v. Katz*, 533 U.S. 194, 206 (2001)
- *Bell v. Wolfish*, 441 U.S. 520, 547 (1979)
- *Williams v. Austen*, No. 4:19-CV-06882 YGR, 2021 WL 4222079, at *6 (N.D. Cal. Sept. 16, 2021)
- *Mayes v. Edwards*, No. 2:19-CV-2236 CKD P, 2022 WL 463396, at *4 (E.D. Cal. Feb. 15, 2022)
- *Billups v. Ramirez*, No. 1:07-CV-00062-CKJ, 2009 WL 1456641, at *7 (E.D. Cal. May 22, 2009)
- *Estelle v. Gamble*, 429 U.S. 97, 104-06 (1976)
- *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006)
- *Hallett v. Morgan*, 296 F.3d 732, 744-46 (9th Cir. 2002)
- *McGuckin v. Smith*, 974 F.2d 1050, 1059-60 (9th Cir. 1992)
- *WMX Techs., Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997) (en banc)
- *Frost v. Agnos*, 152 F.3d 1124, 1130 (9th Cir. 1998)
- *Toguchi v. Chung*, 391 F.3d 1051, 1058 (9th Cir. 2004)
- *Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir. 1989)
- *Shapley v. Nevada Board of State Prison Commissioners*, 766 F.2d 404, 407 (9th Cir. 1985)
- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)