

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
CALIFORNIA

Greer v. County of San Diego

Case No. 19cv378-JO-DEB (S.D. Cal. Mar. 1, 2023) · No. 19cv378-JO-DEB · Decided March 1, 2023

SUMMARY

The United States District Court for the Southern District of California denied the County of San Diego and supervisory defendants’ motions for summary judgment in Frankie Greer’s action arising from injuries sustained after a seizure and fall from a jail bunk. The order addresses claims under 42 U.S.C. § 1983, negligence, the Americans with Disabilities Act, the Rehabilitation Act, and the Tom Bane Civil Rights Act. It also overrules or denies evidentiary objections concerning county critical-incident records and a county grand jury report.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                        |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of California                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | Jinsook Ohta                                                                                                                                                                                                                                                                                           |
| JURISDICTION          | United States District Court for the Southern District of California                                                                                                                                                                                                                                   |
| DECIDED               | March 1, 2023                                                                                                                                                                                                                                                                                          |
| DOCKET                | 19cv378-JO-DEB                                                                                                                                                                                                                                                                                         |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | Plaintiff sued jail employees, supervisory officials, and the County of San Diego under 42 U.S.C. § 1983, the Americans with Disabilities Act, the Rehabilitation Act, California negligence law, and the Tom Bane Civil Rights Act. The County and supervisory defendants moved for summary judgment. |
| STANDARD OF REVIEW    | Summary judgment is appropriate only 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 and draws reasonable inferences in favor of the nonmoving party.                                                 |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                                                                                                                                                                                        |
| PARTIES               | Frankie Greer v. County of San Diego, William Gore, Alfred Joshua, Barbara Lee                                                                                                                                                                                                                         |

TOPICS

section 1983

summary judgment

qualified immunity

prisoners rights

ada / disability

## PRACTICE AREAS

civil rights

prisoner civil rights

constitutional torts

disability discrimination

evidence

negligence

## QUESTIONS PRESENTED

1. Whether the evidence created a genuine dispute of material fact on the County's Monell liability for failure to train, supervise, or discipline jail employees.
2. Whether the evidence created a genuine dispute of material fact on the supervisory defendants' direct § 1983 liability for culpable inaction in training, supervision, or discipline.
3. Whether the supervisory defendants were entitled to qualified immunity.
4. Whether the County was entitled to summary judgment on Greer's ADA and Rehabilitation Act claims based on notice, intentional discrimination, disability status, and reasonable accommodation.
5. Whether the County was entitled to summary judgment on the negligence claim based on exhaustion and California governmental immunity.
6. Whether the County and supervisory defendants were entitled to summary judgment on the Tom Bane Civil Rights Act claims.
7. Whether the CIRB records and San Diego County Grand Jury Report were authenticated and admissible under hearsay exceptions.

## HOLDINGS

1. Summary judgment was denied because the evidence permitted a reasonable jury to find that the County was deliberately indifferent to the need to train, supervise, or discipline jail staff regarding follow-up treatment, communication of medical needs, lower-bunk assignments, and emergency response, and that these deficiencies were a moving force behind Greer's injuries.
2. Summary judgment was denied on the supervisory defendants' direct § 1983 claims because the evidence permitted a jury to find that Gore, Joshua, and Lee personally knew of repeated failures in medical follow-up and communication, had authority over the relevant training and policies, failed to act, and caused or contributed to Greer's injury.
3. The supervisory defendants were not entitled to qualified immunity at the summary-judgment stage because clearly established law put reasonable officials on notice that failing to address known subordinate violations involving necessary medication, medically required lower-bunk placement, and emergency medical response could violate constitutional rights.
4. Summary judgment was denied on the ADA and Rehabilitation Act claims because a jury could find that the County knew of Greer's epilepsy, failed to provide a reasonable lower-bunk accommodation, and acted with the deliberate indifference required for damages.
5. Summary judgment was denied on the County's negligence claim because Greer's Government Claims Act submission was sufficient and California Government Code § 845.6 creates an exception to the

public-entity immunity otherwise provided by § 844.6 for failure to summon immediate medical care.

6. Summary judgment was denied on the Bane Act claims because the County could be vicariously liable if the officer defendants remained liable, and the court found that supervisory conduct may support a Bane Act claim.
7. The CIRB records and San Diego County Grand Jury Report were admissible for purposes of summary judgment because the CIRB records were sufficiently authenticated through defendants' possession and production and qualified under public-records and business-records exceptions, while the Grand Jury Report was a self-authenticating official publication and qualified under the public-records exception.

## KEY QUOTATIONS

*“A plaintiff can show these omissions and failures to train if “facts available to city policymakers put them on actual or constructive notice that the particular omission is substantially certain to result in the violation of the constitutional rights of their citizens.”” (at 20)*

*“The Court therefore denies the County’s motion for summary judgment on the Monell claim.” (at 25)*

*“The above cases, in combination, clearly establish that a jail supervisor cannot turn a blind eye to subordinate actions that would reasonably result in a denial of the above rights.” (at 32)*

*“For the reasons discussed above, the Court denies the County’s and Supervisory Defendants’ motions for summary judgment [Dkts. 208, 211].” (at 40)*

## FACTUAL BACKGROUND

During intake at San Diego Central Jail, Greer informed medical staff that he had epilepsy and needed twice-daily anti-seizure medication. Jail staff failed to provide the medication, failed to assign him to a lower bunk despite a medical notation, and failed to respond promptly to emergency intercom calls after he suffered a seizure and fell from a top bunk. Greer suffered serious injuries, including additional brain injury allegedly caused by delayed emergency care. The record also contained evidence that supervisory officials knew of repeated prior inmate deaths and critical incidents involving failures to follow up on medical needs and communicate those needs between medical and custodial staff.

## PROCEDURAL HISTORY

Greer filed a Second Amended Complaint on February 17, 2021. The officer defendants, supervisory defendants, and County moved for summary judgment on September 19, 2022. The court denied the officer defendants' motions on December 9, 2022, finding triable issues on deliberate indifference, negligence, and Bane Act claims. After oral argument on February 8, 2023, the court denied the County's and supervisory defendants' motions for summary judgment.

## DISPOSITION

other

## CASES CITED

- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-49 (1986)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)
- *In re Oracle Corp. Securities Litigation*, 627 F.3d 376, 387 (9th Cir. 2010)
- *City of Pomona v. SQM North America Corp.*, 750 F.3d 1036, 1049 (9th Cir. 2014)
- *Orr v. Bank of America, NT & SA*, 285 F.3d 764, 773-74 (9th Cir. 2002)
- *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1550-51 (9th Cir. 1990)
- *United States v. Tank*, 200 F.3d 627, 630 (9th Cir. 2000)
- *United States v. Black*, 767 F.2d 1334, 1342 (9th Cir. 1985)
- *Estate of Gonzales v. Hickman*, No. 05-660, 2007 WL 3237727, at \*2 n.3 (C.D. Cal. May 30, 2007)
- *Lorraine v. Markel American Insurance Co.*, 241 F.R.D. 534, 551 (D. Md. 2007)
- *Fraser v. Goodale*, 342 F.3d 1032, 1036-37 (9th Cir. 2003)
- *Beech Aircraft Corp. v. Rainey*, 488 U.S. 153, 170 (1988)
- *United States v. Loyola-Dominguez*, 125 F.3d 1315, 1318 (9th Cir. 1997)
- *Johnson v. City of Pleasanton*, 982 F.2d 350, 352 (9th Cir. 1992)
- *Montiel v. City of Los Angeles*, 2 F.3d 335, 341 (9th Cir. 1993)
- *Monell v. Department of Social Services*, 436 U.S. 658, 690-91 (1978)
- *Horton by Horton v. City of Santa Maria*, 915 F.3d 592, 602-03 (9th Cir. 2019)
- *Castro v. County of Los Angeles*, 833 F.3d 1060, 1075-76 (9th Cir. 2016)
- *Jackson v. Barnes*, 749 F.3d 755, 763 (9th Cir. 2014)
- *City of Canton v. Harris*, 489 U.S. 378, 385, 390 (1989)
- *Long v. County of Los Angeles*, 442 F.3d 1178, 1190 (9th Cir. 2006)
- *Sandoval v. County of San Diego*, 985 F.3d 657, 682 (9th Cir. 2021)
- *Gordon v. County of Orange*, 6 F.4th 961, 974 (9th Cir. 2021)
- *Larez v. City of Los Angeles*, 946 F.2d 630, 645 (9th Cir. 1991)
- *Starr v. Baca*, 652 F.3d 1202, 1208 (9th Cir. 2011)
- *Jeffers v. Gomez*, 267 F.3d 895, 914-15 (9th Cir. 2001)
- *Kwai Fun Wong v. United States*, 373 F.3d 952, 966 (9th Cir. 2004)
- *Pettibone v. Russell*, 59 F.4th 449 (9th Cir. 2023)
- *Clement v. Gomez*, 298 F.3d 898, 905, 907 (9th Cir. 2002)
- *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)
- *Pearson v. Callahan*, 555 U.S. 223, 232 (2009)
- *Anderson v. Creighton*, 483 U.S. 635, 640-41 (1987)
- *Kennedy v. City of Ridgefield*, 439 F.3d 1055, 1065 (9th Cir. 2006)
- *Saucier v. Katz*, 533 U.S. 194, 202 (2001)
- *Lawrence v. United States*, 340 F.3d 952, 955 (9th Cir. 2003)
- *Gibson v. County of Washoe*, 290 F.3d 1175, 1194-96 (9th Cir. 2002)

- *Castro v. County of Los Angeles*, 833 F.3d 1060 (9th Cir. 2016)
- *Akhtar v. Mesa*, 698 F.3d 1202, 1213-14 (9th Cir. 2012)
- *Wakefield v. Thompson*, 177 F.3d 1160, 1165 (9th Cir. 1999)
- *Perez v. Cox*, 788 F. App'x 438, 443-44 (9th Cir. 2019)
- *Armstrong v. Wilson*, 124 F.3d 1019, 1024 (9th Cir. 1997)
- *Duvall v. County of Kitsap*, 260 F.3d 1124, 1138-41 (9th Cir. 2001)
- *Pierce v. County of Orange*, 526 F.3d 1190, 1215 (9th Cir. 2008)
- *Kiman v. New Hampshire Department of Corrections*, 451 F.3d 274, 284 (1st Cir. 2006)
- *Ramos v. Monteiro*, No. 06-0832, 2008 WL 4184644, at \*25 (C.D. Cal. Sept. 8, 2008)
- *Stockett v. Association of California Water Agencies Joint Powers Insurance Authority*, 99 P.3d 500, 503 (Cal. 2004)
- *Venegas v. County of Los Angeles*, 87 P.3d 1, 14 (Cal. 2004)
- *Thomas v. County of San Diego*, No. 15cv2232-L-AGS (S.D. Cal. 2015)
- *Cooper v. Whatcom County*, No. 20-01196, 2023 WL 157572, at \*21 (W.D. Wash. Jan. 11, 2023)