

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Christopher Torres v. Brad Livingston

No. 19-40470, United States Court of Appeals for the Fifth Circuit (August 25, 2020)

SUMMARY

Prisoner's § 1983 Eighth Amendment failure-to-protect claim dismissed for failure to state a claim. The Fifth Circuit held that the plaintiff did not allege deliberate indifference because the officer was unaware of any risk of attack, and the plaintiff himself described the inmate as "harmless." The court also affirmed denial of a Rule 59(e) motion, finding that an inmate affidavit claiming frequent food-slot attacks was not credible and did not show defendants' awareness of a specific danger. Without an underlying constitutional violation, failure-to-train and supervisory claims also fail.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Jerry E. Smith; Don R. Willett; Stuart Kyle Duncan
JURISDICTION	Federal
DECIDED	August 25, 2020
DOCKET	19-40470
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Eastern District of Texas, No. 6:17-CV-196, denial of motion to dismiss and denial of Rule 59(e) motion.
STANDARD OF REVIEW	De novo for 12(b)(6) dismissal; abuse of discretion for Rule 59(e) denial.
PRECEDENTIAL VALUE	published
PARTIES	Christopher Bryan Torres v. Brad Livingston; William Stephens; Kelvin Scott; Edgar Baker, Jr.; Todd Funai; Frances Sims; Jonathan Endsley

TOPICS

- civil rights
- section 1983
- prisoners rights
- motions to dismiss

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court erred in dismissing the §1983 claims for failure to state a claim under Rule 12(b)(6) based on the Eighth Amendment deliberate indifference standard.
2. Whether the district court abused its discretion in denying Torres's Rule 59(e) motion to alter or amend the judgment.

HOLDINGS

1. The complaint failed to allege that the defendant prison official acted with deliberate indifference. Torres did not plead facts showing that Endsley knew of and disregarded a substantial risk of serious harm to Torres.
2. The district court did not abuse its discretion because the newly discovered evidence (affidavit of fellow inmate claiming to have witnessed many food-slot attacks) was not credible and did not demonstrate that the defendants were aware of a specific danger to Torres.

KEY QUOTATIONS

“Torres worked as an inmate janitor in an administrative segregation unit. During mealtimes in that unit, the floor officer—in this case, Jonathan Endsley—opens a row of seven inmates’ food tray slots in quick succession. Once the slots are open, the inmate janitor delivers each inmate a food tray. Inmates often request that officers pass through miscellaneous items, such as books, newspapers, and magazines. Usually, the officer directs an inmate janitor to fulfill those requests. After the food trays are distributed, the officer closes the slots. While Endsley and Torres were delivering meals, Angel Sanchez, one of the inmates, requested that Endsley retrieve pictures from the floor outside his cell. Endsley directed Torres to pick up the photos. Torres complied willingly, noting that Sanchez “appeared harmless and asked in the right tone.” When Torres reached to grab the pictures off the ground, however, Sanchez stabbed him on the right side of his neck.” (2)

“A prison official displays deliberate indifference only if he (1) knows that inmates face a substantial risk of serious bodily harm and (2) disregards that risk by failing to take reasonable measures to abate it.” (3)

“Under Rule 59(e), amending a judgment is appropriate (1) where there has been an intervening change in the controlling law; (2) where the movant presents newly discovered evidence that was previously unavailable; or (3) to correct a manifest error of law or fact.” (4)

FACTUAL BACKGROUND

Torres, an inmate janitor in administrative segregation, was directed by correctional officer Endsley to pick up pictures for inmate Sanchez. While doing so, Sanchez stabbed Torres in the neck, causing permanent injuries. Torres alleged that Endsley failed to protect him, but the court found no evidence that Endsley knew of a risk of attack.

PROCEDURAL HISTORY

Torres sued under §1983 for failure to protect. The district court granted defendants' motion to dismiss under Rule 12(b)(6). Torres moved to alter or amend judgment under Rule 59(e), which the district court denied. Torres appealed.

DISPOSITION

affirmed

CASES CITED

- Jackson v. City of Hearne, 959 F.3d 194, 200 (5th Cir. 2020)
- Cantu v. Jones, 293 F.3d 839, 844 (5th Cir. 2002)
- Farmer v. Brennan, 511 U.S. 825, 834 (1994)
- Taylor v. Stevens, 946 F.3d 211, 221 (5th Cir. 2019)
- Williams v. Banks, 956 F.3d 808, 811 (5th Cir. 2020)
- Whitley v. Hanna, 726 F.3d 631, 648 (5th Cir. 2013)
- Trevino v. City of Fort Worth, 944 F.3d 567, 570 (5th Cir. 2019) (per curiam)
- Demahy v. Schwarz Pharma, Inc., 702 F.3d 177, 182 (5th Cir. 2012) (per curiam)
- Ferraro v. Liberty Mut. Fire Ins. Co., 796 F.3d 529, 534 (5th Cir. 2015)

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