

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Jones v. Preuit & Mauldin

822 F.2d 998 (11th Cir. 1987) · Decided July 24, 1987

SUMMARY

The Eleventh Circuit, on rehearing, reaffirmed that private defendants may assert qualified immunity in a 42 U.S.C. § 1983 action involving prejudgment attachment of property. The court held that the defendants’ attachment of the plaintiff’s cotton pickers pursuant to Alabama law did not violate clearly established due process rights because the process included judicial authorization, a bond, notice, and an opportunity to challenge a wrongful attachment. The court also rejected separate claims concerning an allegedly rigged judicial sale and declined to invalidate the Alabama attachment statute on its face, affirming the district court.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Hill, Circuit Judge; Johnson, Circuit Judge; Eschbach, Senior Circuit Judge
JURISDICTION	Federal
DECIDED	July 24, 1987
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court judgment granting or sustaining summary judgment and dismissing the plaintiff's 42 U.S.C. § 1983 claims; the defendants petitioned for rehearing and rehearing en banc of the panel's prior decision concerning qualified immunity.
STANDARD OF REVIEW	Qualified immunity entitlement was reviewed de novo because whether a right was clearly established is a question of law. The denial of a motion for summary judgment on the facial constitutional challenge was reviewed for abuse of discretion. The court construed the facts in the light most favorable to Jones.
PRECEDENTIAL VALUE	Published precedential opinion of the United States Court of Appeals for the Eleventh Circuit.
PARTIES	Jones v. Preuit & Mauldin, E.F. Mauldin, individually and as administrator of the estate of Leonard Preuit, Preuit Mauldin

TOPICS

section 1983 qualified immunity due process summary judgment appellate procedure

PRACTICE AREAS

Civil rights Constitutional law Federal courts Appellate procedure

QUESTIONS PRESENTED

1. Whether private defendants may assert qualified immunity in a 42 U.S.C. § 1983 damages action arising from a prejudgment attachment.
2. Whether, in 1982, a debtor's constitutional right to notice and a hearing before every prejudgment attachment was clearly established.
3. Whether Preuit & Mauldin's attachment of Jones's cotton pickers violated clearly established due-process rights despite the absence of a preseizure hearing.
4. Whether Jones's alleged judicial-sale-rigging claim stated a § 1983 claim where the complaint did not allege state action or collusion with a state official.
5. Whether Alabama's attachment statute was facially unconstitutional and whether Jones had standing to challenge its authorization for nonjudicial officers to issue writs.

HOLDINGS

1. Private defendants are entitled to qualified immunity in § 1983 damages suits seeking compensation for unconstitutional attachments.
2. By 1982, Supreme Court precedent had not clearly established a debtor's right to a preseizure hearing in every prejudgment attachment case, but had clearly established the need for specified procedural safeguards.
3. The defendants' conduct did not violate clearly established constitutional rights because the attachment was supported by a sworn affidavit, issued by a state judge, accompanied by service and a bond, and subject to a timely state-law challenge.
4. The alleged sale-rigging claim was properly dismissed because the complaint did not allege that the employee acted under color of state law or in collusion with a state official.
5. The court did not invalidate Alabama's attachment statute because Jones lacked standing to challenge the potentially unconstitutional provision authorizing nonjudicial officers to issue writs; a judge had issued the writ in his case.

KEY QUOTATIONS

“On rehearing, we reaffirm our holding that private defendants are entitled to qualified immunity in section 1983 suits seeking damages on account of unconstitutional attachments.” (1000)

“Thus, while a right to a preseizure hearing was not “clearly established” by 1982, a reasonable person would have known that an attachment accomplished without the three procedural safeguards mentioned

above was clearly unconstitutional.” (1002)

“Thus, P & M’s actions were not clearly unconstitutional, and the appellees are entitled to immunity from damages.” (1005)

“Neither the complaint nor any document filed in district court asserts that the action allegedly undertaken by the employee of Preuit & Mauldin to dissuade another potential bidder from bidding on the cotton pickers was undertaken in collusion with any state official who was overseeing the sale.” (1005)

FACTUAL BACKGROUND

Preuit & Mauldin obtained a prejudgment attachment of Jones's cotton pickers under Alabama's mechanic's-lien and attachment statutes to secure unpaid repair charges. They submitted a sworn affidavit, obtained a writ issued by a state judge, posted a bond, and served Jones with the attachment order and complaint. Alabama law provided a separate cause of action to challenge a wrongful attachment and recover damages. Jones also alleged that a Preuit & Mauldin employee attempted to rig the later judicial sale, but the complaint did not allege collusion with a state official or action under color of state law.

PROCEDURAL HISTORY

The panel's prior opinion held that the private defendants were not entitled to qualified immunity. On rehearing, the court reaffirmed that private defendants may invoke qualified immunity in § 1983 damages actions involving unconstitutional attachments, but substituted a new analysis and concluded that these defendants were entitled to summary judgment on qualified-immunity grounds. The court also upheld dismissal of the alleged judicial-sale-rigging claim for lack of state action and declined to invalidate the attachment statute facially because Jones lacked standing to challenge the clerk-issuance provision.

DISPOSITION

affirmed

CASES CITED

- Jones v. Preuit & Mauldin, 808 F.2d 1435 (11th Cir. 1987)
- Lewis v. Hillsboro Transit Authority, 726 F.2d 668, 669 (11th Cir. 1984)
- Harlow v. Fitzgerald, 457 U.S. 800, 818-19 (1982)
- Mitchell v. Forsyth, 472 U.S. 511, 526, 528 n.9 (1985)
- Joseph v. Brierton, 739 F.2d 1244, 1249 (7th Cir. 1984)
- Czurlanis v. Albanese, 721 F.2d 98, 108 & n.8 (3d Cir. 1983)
- Trejo v. Perez, 693 F.2d 482, 488 (5th Cir. 1982)
- Sniadack v. Family Finance Corp. of Bay View, 395 U.S. 337 (1969)
- Fuentes v. Shevin, 407 U.S. 67, 74 (1972)
- Mitchell v. W.T. Grant Co., 416 U.S. 600, 616-18, 622-23 (1974)
- North Georgia Finishing, Inc. v. Di-Chem, Inc., 419 U.S. 601, 607 (1974)

- Johnson v. American Credit Co. of Georgia, 581 F.2d 526, 533-35 (5th Cir. 1978)
- Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc)
- Parratt v. Taylor, 451 U.S. 527 (1981)
- Logan v. Zimmerman Brush Co., 455 U.S. 422 (1982)
- Lugar v. Edmondson Oil Co., 457 U.S. 922, 937 (1982)
- Johnson v. Bryant, 671 F.2d 1276, 1279 (11th Cir. 1982)
- Morrison v. Washington County, Alabama, 700 F.2d 678 (11th Cir. 1983)
- First National Bank v. Cheney, 120 Ala. 117, 23 So. 733 (1898)
- Liversage v. Gibson, 222 Ala. 672, 133 So. 715 (1931)
- Ivey v. Verbeck, 461 So. 2d 813, 815-16 (Ala. Civ. App. 1984)
- Foshee v. General Telephone Co. of the Southeast, 295 Ala. 70, 322 So. 2d 715, 717 (1975)
- Ex parte Martin, 412 So. 2d 815, 817 (Ala. Civ. App. 1982)
- Daniels v. Williams, 474 U.S. 327 (1986)
- Griswold v. Connecticut, 381 U.S. 479, 481 (1965)