

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Roger McMaster v. Cabinet for Human Resources

824 F.2d 518 (6th Cir. 1987) · No. No. 86-5606 · Decided July 29, 1987

SUMMARY

The Sixth Circuit affirmed dismissal of state employees' 42 U.S.C. § 1983 claim alleging that their dismissals and related administrative proceedings constituted malicious prosecution and violated substantive due process. The court held that the employees' dismissals did not institute proceedings for purposes of malicious prosecution and that the alleged conduct did not rise to a constitutional violation because the plaintiffs were never exposed to incarceration and the conduct did not shock the conscience. The court also noted that the plaintiffs' claims were subject to Kentucky's one-year statute of limitations.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	Avern Cohn; David A. Nelson; Wellford
JURISDICTION	Federal
DECIDED	July 29, 1987
DOCKET	No. 86-5606
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed the dismissal under Federal Rule of Civil Procedure 12(b) of their 42 U.S.C. § 1983 substantive-due-process claim based on alleged malicious prosecution arising from their dismissal from state employment.
STANDARD OF REVIEW	The court reviewed the dismissal for failure to state a claim, construing the complaint favorably to plaintiffs.
PRECEDENTIAL VALUE	Published Sixth Circuit opinion; precedential
PARTIES	Roger McMaster, et al. v. Cabinet for Human Resources, et al.

TOPICS

- section 1983
- substantive due process
- civil rights
- employment law
- administrative law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the dismissal of state employees under a statutory employment process constituted the institution or initiation of proceedings sufficient to support a § 1983 claim analogous to malicious prosecution.
2. Whether the alleged conduct violated substantive due process under the standard requiring conduct that shocks the conscience.
3. Whether plaintiffs were required to exhaust state remedies before bringing their § 1983 action.

HOLDINGS

1. The employer's dismissal letters did not institute or initiate judicial, quasi-judicial, or administrative proceedings because the employees, rather than the employer, were required to invoke the statutory review machinery. Plaintiffs therefore failed to state a § 1983 claim based on malicious prosecution.
2. Plaintiffs failed to state a substantive-due-process claim because they were never subjected to the possibility of incarceration and the alleged conduct did not shock the conscience. Section 1983 does not apply to every allegedly unfounded or malicious dismissal from employment absent another constitutionally or federally protected basis for the dismissal.
3. Plaintiffs were not required to exhaust state administrative or judicial remedies before pursuing their § 1983 claim.

KEY QUOTATIONS

“Malicious prosecution relates to resort to procedure for abusive purposes.” (522)

“Where a plaintiff complains of other conduct, even conduct requiring the plaintiff to institute proceedings to reverse the effect of a defendant's conduct, the plaintiff must assert a cause of action premised directly on the underlying conduct.” (522)

“Because plaintiffs were never subjected to the possibility of incarceration, they failed to state a claim for violation of substantive due process.” (523)

FACTUAL BACKGROUND

Plaintiffs worked for Kentucky's Cabinet for Human Resources and were suspended for cause after the highly publicized death of a juvenile, with their letters of suspension also announcing dismissal effective February 1, 1983. They invoked Kentucky's statutory personnel procedures, obtained reinstatement and full back pay from the state personnel board, and prevailed when the Cabinet's appeal was affirmed by the state circuit court. They then alleged that the dismissal and the Cabinet's pursuit of the administrative appeal constituted malicious prosecution and violated substantive due process.

PROCEDURAL HISTORY

Plaintiffs were suspended and dismissed from employment with Kentucky's Cabinet for Human Resources. They pursued a state personnel-board appeal and obtained reinstatement with full back pay; the state circuit court affirmed. Plaintiffs then filed a federal action alleging a conspiracy and malicious prosecution under §§ 1983 and 1985, along with pendent state claims. The district court dismissed, concluding that the dismissal did not constitute institution of malicious-prosecution proceedings and alternatively that the § 1983 claim was untimely. The Sixth Circuit affirmed on the ground that plaintiffs failed to state a § 1983 malicious-prosecution claim.

DISPOSITION

affirmed

CASES CITED

- Wilson v. Garcia, 471 U.S. 261 (1985)
- Mulligan v. Hazard, 777 F.2d 340 (6th Cir. 1985)
- United Mine Workers v. Gibbs, 383 U.S. 715 (1966)
- Conley v. Gibson, 355 U.S. 41, 45-46 (1957)
- Dunn v. State of Tennessee, 697 F.2d 121, 125 (6th Cir. 1982), cert. denied sub nom. Wyllie v. Dunn, 460 U.S. 1086 (1983)
- Lucsik v. Board of Education of Brunswick City School District, 621 F.2d 841, 842 (6th Cir. 1980)
- Raine v. Drasin, 621 S.W.2d 895, 899 (Ky. 1981)
- First National Bank of Mayfield v. Gardner, 376 S.W.2d 311, 316 (Ky. 1964)
- Seidel v. Greenberg, 108 N.J. Super. 248, 260 A.2d 863, 868 (1969)
- Hardy v. Vial, 48 Cal. 2d 577, 311 P.2d 494 (1957)
- Vasquez v. City of Hamtramck, 757 F.2d 771, 773 (6th Cir. 1985)
- Rochin v. California, 342 U.S. 165 (1952)
- Bacon v. Patera, 772 F.2d 259 (6th Cir. 1985)
- Garner v. Stephens, 460 F.2d 1144 (6th Cir. 1972)
- Fiser v. Bowling, 812 F.2d 1406 (6th Cir. 1987)
- Goss v. Personnel Board, 456 S.W.2d 819, 822 (Ky. 1970)
- King v. Sermonis, 481 S.W.2d 652 (Ky. 1972)
- Patsy v. Board of Regents, 457 U.S. 496 (1982)
- Monroe v. Pape, 365 U.S. 167 (1961)
- Punton v. City of Seattle, 805 F.2d 1378 (9th Cir. 1986), cert. denied, 107 S. Ct. 1954 (1987)
- Russell v. Harrison, 736 F.2d 283, 288 (5th Cir. 1984)
- Barnett v. Housing Authority, 707 F.2d 1571, 1577 (11th Cir. 1983)
- Illinois Psychological Association v. Marshall Falk, 818 F.2d 1337, 1342 (7th Cir. 1987)
- Brown v. Brienens, 722 F.2d 360, 366-67 (7th Cir. 1983), 368-69 (Flaum, J., concurring)
- Clark v. Yosemite Community College District, 785 F.2d 781 (9th Cir. 1986)

- *Cohen v. City of Philadelphia*, 736 F.2d 81 (3d Cir. 1984)
- *Migra v. Warren City School District Board of Education*, 465 U.S. 75, 85 (1984)

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