

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Leslie Hendershot v. Dustin Slovacek

709 F. App'x 250 (5th Cir. 2017) · No. 16-40346 · Decided September 8, 2017

SUMMARY

The Fifth Circuit affirmed the summary-judgment dismissal of Leslie Hendershot's 42 U.S.C. § 1983 claims against law-enforcement officers and physicians. The court held that record evidence blatantly contradicted Hendershot's account of being shot and therefore defeated his excessive-force and medical-treatment claims. The court also rejected challenges concerning official-capacity claims, hospital surveillance footage, appointment of counsel, and supplemental attachments, and denied the pending motions.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Per Curiam; Circuit Judge Jolly; Circuit Judge Owen; Circuit Judge Haynes
JURISDICTION	Federal
DECIDED	September 8, 2017
DOCKET	16-40346
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Southern District of Texas after the district court granted summary judgment and dismissed Hendershot's 42 U.S.C. § 1983 claims.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, applying the same standard as the district court. A ruling on production of evidence is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Unpublished and nonprecedential, except under the limited circumstances provided by 5th Cir. R. 47.5.4.
PARTIES	Leslie Hendershot v. Corporal Dustin Slovacek, Deputy Jeffery Thompson, Deputy Raul Diaz, Sr., Doctor Alfred Bowles, Doctor David Hill, Doctor David Blomstrom, Texas Department of Public Safety Troopers, DeWitt County Sheriff's Department Deputies, Law Enforcement Officers, Other Authorities

TOPICS

section 1983

qualified immunity

summary judgment

police misconduct

appellate procedure

PRACTICE AREAS

civil rights

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QUESTIONS PRESENTED

1. Whether summary judgment was proper on Hendershot's excessive-force claims against the officers in their individual capacities.
2. Whether summary judgment was proper on Hendershot's claims against the doctors for allegedly failing to diagnose and treat gunshot wounds.
3. Whether the official-capacity claims against Slovacek were properly dismissed as barred by sovereign immunity.
4. Whether the district court abused its discretion by denying Hendershot's motion to obtain hospital surveillance video.
5. Whether the Fifth Circuit should grant Hendershot's motions for appointment of counsel and leave to file supplemental attachments.

HOLDINGS

1. Summary judgment was proper because the record evidence blatantly contradicted Hendershot's version of events, so no reasonable jury could believe his assertions and he could not establish a genuine dispute concerning a violation of clearly established law.
2. Summary judgment was proper on Hendershot's claims against the doctors because the record evidence contradicted his account of having gunshot wounds, leaving no genuine dispute of material fact.
3. The dismissal of the official-capacity claims against Slovacek was not disturbed because Hendershot failed to brief the issue and thereby effectively abandoned it; the district court had dismissed those claims as barred by sovereign immunity.
4. The district court did not abuse its discretion by denying Hendershot's motion for production of the hospital surveillance footage.

KEY QUOTATIONS

“Summary judgment is warranted “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.”” (2)

“Because Hendershot’s version of events is “blatantly contradicted” by the record evidence, which includes photos of him in the hospital after his arrest without any gunshot wounds, “no reasonable jury could believe” his assertions.” (2)

FACTUAL BACKGROUND

Hendershot alleged that, after consuming methamphetamine during a traffic stop near a Texas Aryan Brotherhood compound, gunfire erupted and Deputy Raul Diaz shot him in the face with a shotgun. He asserted that the law-enforcement defendants used excessive force and that three doctors failed to diagnose and treat his alleged gunshot wounds. Record evidence, including hospital photographs taken after his arrest, showed no gunshot wounds, contradicting his version of events.

PROCEDURAL HISTORY

Hendershot brought civil-rights claims against law-enforcement officers and doctors arising from an alleged shooting and subsequent medical treatment. The district court granted summary judgment, dismissing the individual-capacity claims against the officers on qualified-immunity grounds and dismissing the claims against the doctors; it also dismissed official-capacity claims against Slovacek as barred by sovereign immunity. The Fifth Circuit affirmed and denied the parties' motions.

DISPOSITION

affirmed

CASES CITED

- Estate of Henson v. Wichita County, 795 F.3d 456, 461 (5th Cir. 2015)
- Pearson v. Callahan, 555 U.S. 223, 243 (2009)
- Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)
- Scott v. Harris, 550 U.S. 372, 380 (2007)
- Holtzclaw v. DSC Communications Corp., 255 F.3d 254, 257-58 (5th Cir. 2001)
- Mapes v. Bishop, 541 F.3d 582, 584 (5th Cir. 2008)
- American Family Life Assurance Co. of Columbus v. Biles, 714 F.3d 887, 894 (5th Cir. 2013)
- Ulmer v. Chancellor, 691 F.2d 209, 212 (5th Cir. 1982)
- Theriot v. Parish of Jefferson, 185 F.3d 477, 491 n.26 (5th Cir. 1999)