

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

McDonough v. Smith

No. 17-296-cv, United States Court of Appeals for the Second Circuit (August 3, 2018)

SUMMARY

A § 1983 due process claim for fabrication of evidence accrues when the plaintiff learns of the fabrication and it is used against him, causing a liberty deprivation (e.g., arrest or trial), not upon acquittal; thus, the claim was time-barred under the three-year statute of limitations. A prosecutor is entitled to absolute immunity from a malicious prosecution claim because initiating and pursuing a prosecution is a quintessential prosecutorial function, regardless of any investigatory conduct. The Second Circuit affirmed dismissal of both claims.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Droney, Circuit Judge; Jacobs, Circuit Judge; Raggi, Circuit Judge
JURISDICTION	Federal
DECIDED	August 3, 2018
DOCKET	17-296-cv
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from a judgment of the United States District Court for the Northern District of New York (D'Agostino, J.) dismissing the Plaintiff-Appellant's claims under 42 U.S.C. § 1983.
STANDARD OF REVIEW	We review de novo the grant of a motion to dismiss, accepting all factual allegations in the complaint as true and drawing inferences from those allegations in the light most favorable to the plaintiff.
PRECEDENTIAL VALUE	Published
PARTIES	Edward G. McDonough v. Youel Smith

TOPICS

- civil rights
- section 1983
- due process
- statute of limitations
- appellate procedure

PRACTICE AREAS

- Civil Rights
- Section 1983
- Statute of Limitations
- Prosecutorial Immunity

QUESTIONS PRESENTED

1. Whether McDonough's due process claim based on fabricated evidence was timely under the statute of limitations.
2. Whether Smith was entitled to absolute prosecutorial immunity on the malicious prosecution claim.

HOLDINGS

1. The §1983 action based on fabrication of evidence accrued when the plaintiff (1) learned of the fabrication and its use against him in criminal proceedings, and (2) was deprived of a liberty interest by his arrest and trial. Because both occurred more than three years before suit, the claim was untimely.
2. Prosecutors are entitled to absolute immunity for acts intimately associated with the judicial phase of the criminal process, and the malicious prosecution claim relates only to Smith's prosecutorial function, so he is immune.

KEY QUOTATIONS

“We review de novo the grant of a motion to dismiss, accepting all factual allegations in the complaint as true and drawing inferences from those allegations in the light most favorable to the plaintiff.”

“The statute of limitations begins to run on a fabrication of evidence claim under § 1983 when the plaintiff has 'reason to know of the injury which is the basis of his action.'”

“We thus conclude that, under the circumstances here, the § 1983 action based on fabrication of evidence accrued when McDonough (1) learned of the fabrication of the evidence and its use against him in criminal proceedings, and (2) was deprived of a liberty interest by his arrest and trial.”

“Prosecutors are protected by absolute immunity for their acts that are 'intimately associated with the judicial phase of the criminal process' and their role as advocates, but they receive only qualified immunity for acts that are investigatory in nature.”

FACTUAL BACKGROUND

McDonough was the Democratic Commissioner of the Rensselaer County Board of Elections. In 2009, individuals forged absentee ballot applications and ballots in a primary election. McDonough approved the forged applications, claiming he did not know they were falsified. The plot was discovered, and Smith was appointed as Special District Attorney to investigate and prosecute. McDonough claimed Smith fabricated evidence (forged affidavits, false testimony, faulty DNA methods) and presented it to a grand jury, leading to indictment on dozens of forgery counts. McDonough was tried twice, ending in acquittal on December 21, 2012. He filed this §1983 action on December 18, 2015.

PROCEDURAL HISTORY

McDonough filed a §1983 action alleging due process violation based on fabricated evidence and malicious prosecution. The district court dismissed the due process claim as untimely and the malicious prosecution claim against Smith on absolute immunity grounds. The district court entered judgment as to Smith under Rule 54(b) and certified for interlocutory appeal.

DISPOSITION

affirmed

CASES CITED

- Bascunan v. Elsaca, 874 F.3d 806 (2d Cir. 2017)
- Deutsche Bank Nat'l Tr. Co. v. Quicken Loans Inc., 810 F.3d 861 (2d Cir. 2015)
- Poventud v. City of New York, 750 F.3d 121 (2d Cir. 2014)
- Heck v. Humphrey, 512 U.S. 477 (1994)
- Spak v. Phillips, 857 F.3d 458 (2d Cir. 2017)
- Smith v. Campbell, 782 F.3d 93 (2d Cir. 2015)
- Wallace v. Kato, 549 U.S. 384 (2007)
- Veal v. Geraci, 23 F.3d 722 (2d Cir. 1994)
- Zahrey v. Coffey, 221 F.3d 342 (2d Cir. 2000)
- Ricciuti v. N.Y.C. Transit Auth., 124 F.3d 123 (2d Cir. 1997)
- United States v. Agurs, 427 U.S. 97 (1976)
- Singleton v. New York, 632 F.2d 185 (2d Cir. 1980)
- Mitchell v. Home, 377 F. Supp. 2d 361 (S.D.N.Y. 2005)
- Floyd v. Attorney Gen. of Pennsylvania, 722 F. App'x 112 (3d Cir. 2018)
- Bradford v. Scherschligt, 803 F.3d 382 (9th Cir. 2015)
- Mondragon v. Thompson, 519 F.3d 1078 (10th Cir. 2008)
- Manganiello v. City of New York, 612 F.3d 149 (2d Cir. 2010)
- Colon v. City of New York, 60 N.Y.2d 78 (1983)
- Bailey v. City of New York, 79 F. Supp. 3d 424 (E.D.N.Y. 2015)
- Pinaud v. County of Suffolk, 52 F.3d 1139 (2d Cir. 1995)
- Manuel v. City of Joliet, 137 S. Ct. 911 (2017)
- Simon v. City of New York, 727 F.3d 167 (2d Cir. 2013)
- Shmueli v. New York, 424 F.3d 231 (2d Cir. 2005)
- Barr v. Abrams, 810 F.2d 358 (2d Cir. 1987)
- Working Families Party v. Fisher, 23 N.Y.3d 539 (2014)
- Imbler v. Pachtman, 424 U.S. 409 (1976)

CITED IN

- McDonough v. Smith, McDonough v. Smith, 588 U.S. 109, 118-19

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