

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Dover v. Rose

709 F.2d 436 (6th Cir. 1983) · No. No. 82-5213 · Decided June 6, 1983

SUMMARY

The Sixth Circuit held that Roger Dover was not a prevailing party entitled to attorney's fees under 42 U.S.C. § 1988. Although the district court found that Dover's due process rights had been violated by an 11-month delay in prisoner classification, he received no damages or other relief, and his lawsuit was not shown to have caused changes in the classification system. The court affirmed the denial of attorney's fees.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	Contie, Circuit Judge; Engel, Circuit Judge; Celebrezze, Senior Circuit Judge
JURISDICTION	Federal
DECIDED	June 6, 1983
DOCKET	No. 82-5213
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court order denying the plaintiff's motion for attorney's fees under the Civil Rights Attorney's Fees Awards Act of 1976, 42 U.S.C. § 1988.
STANDARD OF REVIEW	The court reviewed the threshold prevailing-party determination under 42 U.S.C. § 1988.
PRECEDENTIAL VALUE	Published Sixth Circuit opinion; precedential
PARTIES	Roger Dover v. Jim Rose, Warden

TOPICS

- section 1983
- civil rights
- remedies
- procedural due process
- appellate procedure

PRACTICE AREAS

- civil rights litigation
- prisoner rights
- attorney's fees
- appellate procedure

QUESTIONS PRESENTED

1. Whether a plaintiff who obtains a finding of a constitutional violation but receives no damages or other judicially enforceable relief is a prevailing party entitled to attorney's fees under 42 U.S.C. § 1988.
2. Whether Dover's lawsuit qualified under the catalyst theory because it allegedly caused changes in the prison classification process.

HOLDINGS

1. A plaintiff is not a prevailing party under § 1988 unless he establishes entitlement to some form of relief on the merits of a substantial claim. A finding of a constitutional violation, without an award of damages or other effective relief, is insufficient.
2. Dover did not qualify as a prevailing party under the catalyst theory because he failed to show that his lawsuit caused the defendant to make significant changes in the prison classification process.

KEY QUOTATIONS

“Since the plaintiff has failed to establish his entitlement to any relief and has failed to demonstrate that his lawsuit caused the defendant to alter the classification process for NIC prisoners, we hold that the plaintiff is not the prevailing party in this action.” (709 F.2d at 439)

FACTUAL BACKGROUND

After Dover's Tennessee murder conviction, he was transferred to the Tennessee State Penitentiary without the required commitment papers. Because the papers were missing, he was designated "Not In Count" and held in maximum security for approximately eleven months without a classification hearing. After his conviction was affirmed, the papers were forwarded and he was classified as a medium-security prisoner. Dover's § 1983 action resulted in a finding that his due process rights had been violated, but he received no damages and had sought no injunctive or declaratory relief.

PROCEDURAL HISTORY

Dover filed a pro se action under 42 U.S.C. § 1983 alleging that he had been held in maximum security for approximately eleven months without classification procedures. The district court found a due process violation but awarded no damages because the defendant was not culpable beyond negligence, the trial judge's omission was the probable cause of the injury, and the damages were de minimis; the action was dismissed because damages were the only relief sought. The district court initially granted attorney's fees, later vacated that order, and held that Dover was not a prevailing party. The Sixth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Northcross v. Board of Education of Memphis City Schools, 611 F.2d 624, 633, 636 (6th Cir. 1979), cert. denied, 447 U.S. 911 (1980)
- Price v. Pelka, 690 F.2d 98, 101 (6th Cir. 1982)
- Reel v. Arkansas Department of Correction, 672 F.2d 693, 697 (8th Cir. 1982)
- Busche v. Burkee, 649 F.2d 509, 521 (7th Cir. 1981), cert. denied, 454 U.S. 897 (1981)
- Nadeau v. Helgemoe, 581 F.2d 275, 278-79 (1st Cir. 1978)
- Maher v. Gagne, 448 U.S. 122, 129 (1980)
- Hanrahan v. Hampton, 446 U.S. 754, 756-57 (1980)
- Johnston v. Jago, 691 F.2d 283, 285 (6th Cir. 1982)
- Othen v. Ann Arbor School Board, 699 F.2d 309, 313 (6th Cir. 1983)
- Edelman v. Jordan, 415 U.S. 651, 677 (1974)
- Harrington v. Vandalia-Butler Board of Education, 585 F.2d 192, 197 (6th Cir. 1978), cert. denied, 441 U.S. 932 (1979)
- State v. Grey, 602 S.W.2d 259 (Tenn. Cr. App. 1980)
- Chisom v. State, 539 S.W.2d 831, 833 (Tenn. Cr. App. 1976)