

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

## Bobby Dirickson v. Board of County Commissioners of the County of Otero, et al.

Civ. No. 23-562 MLG/KK · No. Civ. No. 23-562 MLG/KK; 1:23-cv-00562 · Decided February 20, 2026

### SUMMARY

A United States Magistrate Judge’s Proposed Findings and Recommended Disposition in Bobby Dirickson’s § 1983 action against Otero County officials and others. The recommendation would grant summary judgment on claims alleging deliberate indifference to a gunshot wound, deny equitable tolling, and allow the remaining medical-care claims concerning an emergent cardiac condition to proceed. The document analyzes accrual and the three-year statute of limitations applicable to § 1983 claims arising in New Mexico.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the District of New Mexico                                                                                                                                                                                                                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Kirtan Khalsa, United States Magistrate Judge                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| JURISDICTION          | United States District Court for the District of New Mexico                                                                                                                                                                                                                                                                                                                                                                                                                              |
| DECIDED               | February 20, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| DOCKET                | Civ. No. 23-562 MLG/KK; 1:23-cv-00562                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Magistrate judge's proposed findings and recommended disposition on defendants' motion for summary judgment and plaintiff's motion for equitable tolling in a pro se prisoner civil-rights action under 42 U.S.C. § 1983.                                                                                                                                                                                                                                                                |
| STANDARD OF REVIEW    | Summary judgment is appropriate when the record shows no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. On an affirmative defense, the movant must first show that no disputed material fact exists regarding the defense; the burden then shifts to the nonmovant to present admissible evidence establishing a genuine dispute. The court views disputed facts in the nonmovant's favor but does not draw unreasonable inferences. |
| PRECEDENTIAL VALUE    | nonprecedential recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

### TOPICS

section 1983

prisoners rights

statute of limitations

summary judgment

civil procedure

## PRACTICE AREAS

civil rights

constitutional law

prisoner civil rights

civil procedure

health law

## QUESTIONS PRESENTED

1. Whether the three-year statute of limitations barred plaintiff's § 1983 claims arising from alleged deliberate indifference to his gunshot wound.
2. Whether plaintiff's cardiac-condition medical-care claims were shown to be untimely as a matter of law, including whether the claims related back to the first amended complaint.
3. Whether plaintiff's access-to-the-courts and equal-protection claims were subject to summary judgment based on the arguments presented.
4. Whether plaintiff established grounds for equitable tolling of the statute of limitations on his gunshot-wound claims.
5. Whether defendants' motion, styled as a motion for summary judgment but containing Rule 12(b)(6) standards and relying on materials outside the pleadings, should be treated as a summary-judgment motion.

## HOLDINGS

1. The motion should be analyzed as one for summary judgment because it was styled as such, invoked summary-judgment procedures, and involved materials outside the pleadings submitted in connection with the intertwined equitable-tolling motion.
2. Section 1983 claims arising in New Mexico are subject to a three-year limitations period, while federal law determines when the claims accrue.
3. Plaintiff's § 1983 claims based on deliberate indifference to his gunshot wound accrued no later than July 18, 2020, and were untimely because the first amended complaint was filed after the three-year limitations period expired.
4. Defendants did not establish that plaintiff's cardiac-condition claims were untimely as a matter of law, and summary judgment should be denied on those claims.
5. Summary judgment should be denied on plaintiff's access-to-the-courts and equal-protection claims because defendants neither argued nor presented evidence establishing entitlement to judgment on those claims.
6. Plaintiff was not entitled to equitable tolling of the limitations period for his gunshot-wound claims.

## KEY QUOTATIONS

*"A medical condition is "sufficiently serious" when "the condition has been diagnosed by a physician as mandating treatment or is so obvious that even a lay person would easily recognize the necessity for a doctor's attention." "* (at 12)

*“The subjective component of a deliberate indifference claim is satisfied when the plaintiff shows that a prison official “knows of and disregards an excessive risk to inmate health or safety.”” (at 13)*

*“An important caveat to the continuing violation doctrine, however, is that it is triggered by continual unlawful acts, not by continual ill effects from the original violation.” (at 16)*

## FACTUAL BACKGROUND

Plaintiff was detained at the Otero County Detention Center after his March 2020 arrest and had a gunshot wound to his neck that was treated at a hospital. The hospital directed that he receive daily wound care from a wound-care-certified provider, but plaintiff alleged that detention officials instead directed staff to provide the best care they could despite lacking the required certification, and that his wound became infected and painful. Plaintiff later developed lower-extremity swelling and shortness of breath associated with an emergent cardiac condition in November 2020. He also alleged denial of access to court hearings, tampering with medical records, and equal-protection violations.

## PROCEDURAL HISTORY

Plaintiff filed an original letter complaint in June 2023, a first amended complaint in October 2023, and a second amended complaint in September 2024. The district court dismissed claims against twenty-seven defendants, directed six defendants to answer, and defendants then moved for summary judgment based on the statute of limitations. Plaintiff moved for equitable tolling. The magistrate judge recommended granting summary judgment on the gunshot-wound medical-care claims, denying summary judgment on the cardiac-condition, access-to-the-courts, and equal-protection claims, and denying equitable tolling.

## DISPOSITION

other

## CASES CITED

- Ahmad v. Furlong, 435 F.3d 1196, 1202 (10th Cir. 2006)
- Adler v. Wal-Mart Stores, Inc., 144 F.3d 664, 670-71 (10th Cir. 1998)
- Al-Turki v. Robinson, 762 F.3d 1188, 1192 (10th Cir. 2014)
- Atlantic Richfield Co. v. Farm Credit Bank of Wichita, 226 F.3d 1138, 1148 (10th Cir. 2000)
- Bird v. W. Valley City, 832 F.3d 1188, 1199 (10th Cir. 2016)
- Braxton v. Zavaras, 614 F.3d 1156, 1159 (10th Cir. 2010)
- Bradenburg v. Beaman, 632 F.2d 120, 122 (10th Cir. 1980)
- Burkley v. Corr. Healthcare Mgmt. of Oklahoma, Inc., 141 F. App'x 714, 716 (10th Cir. 2005)
- Clark v. Colbert, 895 F.3d 1258, 1267 (10th Cir. 2018)
- Cuervo v. Sorenson, 112 F.4th 1307, 1312 (10th Cir. 2024)
- Davis v. Arkansas Valley Correctional Facility, 99 F. App'x 838, 841 n.6 (10th Cir. 2004)
- Donner v. Nicklaus, 778 F.3d 857, 876 (10th Cir. 2015)

- Dry v. United States, 235 F.3d 1249, 1255 (10th Cir. 2000)
- Duncan v. Manager, Dep't of Safety, City & Cnty. of Denver, 397 F.3d 1300, 1315 (10th Cir. 2005)
- Estate of Beauford v. Mesa County, Colo., 35 F.4th 1248, 1262 (10th Cir. 2022)
- Estate of Redd ex rel. Redd v. Love, 848 F.3d 899, 906 (10th Cir. 2017)
- Estrada v. Smart, 107 F.4th 1254, 1261 (10th Cir. 2024), cert. denied, 146 S. Ct. 90 (2025)
- Franklin v. Kansas Department of Corrections, 160 F. App'x 730, 734 (10th Cir. 2005)
- Gilles v. United States, 906 F.2d 1386, 1389 (10th Cir. 1990)
- Herrera v. City of Espanola, 32 F.4th 980, 989-95 (10th Cir. 2022)
- Jones v. Kodak Medical Assistance Plan, 169 F.3d 1287, 1291 (10th Cir. 1999)
- Krupski v. Costa Crociere S.p.A., 560 U.S. 538, 549, 553 (2010)
- Lance v. Morris, 985 F.3d 787, 793 (10th Cir. 2021)
- Little v. Baigas, 2017-NMCA-027, ¶ 12, 390 P.3d 201, 207
- Lucas v. Turn Key Health Clinics, LLC, 58 F.4th 1127, 1137, 1146 (10th Cir. 2023)
- May v. Segovia, 929 F.3d 1223, 1228-29 (10th Cir. 2019)
- McClelland v. Deluxe Financial Services, Inc., 431 F. App'x 718, 725 (10th Cir. 2011)
- Myers v. Koopman, 738 F.3d 1190, 1194 n.2 (10th Cir. 2013)
- Paugh v. Uintah County, 47 F.4th 1139, 1154 (10th Cir. 2022)
- Prince v. Sheriff of Carter County, 28 F.4th 1033, 1044 (10th Cir. 2022)
- Ricci v. DeStefano, 557 U.S. 557, 586 (2009)
- Roberts v. Barreras, 484 F.3d 1236, 1241-42 (10th Cir. 2007)
- Self v. Crum, 439 F.3d 1227, 1231 (10th Cir. 2006)
- Slusser v. Vantage Builders, Inc., 2013-NMCA-073, ¶ 16, 306 P.3d 524, 531
- Smith v. City of Enid, 149 F.3d 1151, 1154 (10th Cir. 1998)
- Smith v. Maschner, 899 F.2d 940, 947 (10th Cir. 1990)
- Snow v. Warren Power & Machinery, Inc., 2015-NMSC-026, ¶ 24, 354 P.3d 1285, 1290
- Tesone v. Empire Marketing Strategies, 942 F.3d 979, 994 (10th Cir. 2019)
- Varnell v. Dora Consolidated School District, 756 F.3d 1208, 1212 (10th Cir. 2014)
- Wallace v. Kato, 549 U.S. 384, 388, 391 (2007)

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