

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Blumberg v. Gates

154 F. App'x 573 (9th Cir. 2005) · Decided November 2, 2005

SUMMARY

The Ninth Circuit affirmed summary judgment for the defendants on Paul Blumberg’s 42 U.S.C. § 1983 false-arrest claim, holding that he failed to identify evidence creating a genuine issue of material fact. The court also affirmed dismissal of his RICO claims because he conceded that the factual allegations underlying those claims were false.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Per curiam; Ezra; Kozinski; Rawlinson
JURISDICTION	Federal
DECIDED	November 2, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the district court's grant of summary judgment to defendants on a 42 U.S.C. § 1983 false-arrest claim and dismissal of RICO claims for lack of standing.
STANDARD OF REVIEW	De novo review applies to the grant of summary judgment and to dismissal of a RICO claim for failure to establish standing based on injury to business or property.
PRECEDENTIAL VALUE	Unpublished, nonprecedential memorandum disposition
PARTIES	Paul Blumberg v. Gates, Defendants-Appellees

TOPICS

- section 1983
- civil rights
- summary judgment
- standing
- civil procedure

PRACTICE AREAS

- Civil rights
- Civil procedure
- RICO

QUESTIONS PRESENTED

1. Whether defendants were entitled to summary judgment on Blumberg's § 1983 false-arrest claim.

2. Whether the district court properly dismissed Blumberg's RICO claims for lack of standing.
3. Whether the dismissal of the RICO claims could be affirmed on the alternative ground that Blumberg conceded the falsity of the allegations underlying those claims.

HOLDINGS

1. Summary judgment was proper because defendants met their initial burden of showing that no genuine issue of material fact existed, and Blumberg failed to come forward with specific material facts requiring a trial.
2. The dismissal of Blumberg's RICO claims was affirmed because he conceded that the factual allegations on which those claims were based were false.

KEY QUOTATIONS

“Because there is simply no evidence in the record to support Appellant's novel new spin on his section 1983 claim, Appellant failed to raise any genuine issue of material fact.” (154 F. App'x at 575)

FACTUAL BACKGROUND

Defendants supported their motion for summary judgment with declarations from two investigating sheriff's deputies stating that the Los Angeles Police Department was not involved in the investigation, along with evidence purportedly supporting probable cause. Blumberg offered a new theory of his § 1983 false-arrest claim but identified no record evidence creating a genuine issue of material fact. He also alleged that lost wages during incarceration constituted a compensable RICO injury, but conceded that the factual allegations underlying his RICO claims were false.

PROCEDURAL HISTORY

The district court granted defendants summary judgment on Blumberg's § 1983 false-arrest claim and dismissed his RICO claims for lack of standing. Blumberg appealed, and the Ninth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- *Buono v. Norton*, 371 F.3d 543, 545 (9th Cir. 2004)
- *Chaset v. Fleer/Skybox Int'l*, 300 F.3d 1083, 1085 (9th Cir. 2002)
- *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986)
- *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 159 (1970)
- *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630 (9th Cir. 1987)
- *Oscar v. Univ. Students CO-Op. Ass'n*, 965 F.2d 783, 785 (9th Cir. 1992) (en banc)

