

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Winston v. Monahan

Winston · No. Civil Action No. 23-2123 (LLA) · Decided March 26, 2026

SUMMARY

The U.S. District Court for the District of Columbia considers Defendants’ motion to dismiss claims arising from the detention, search, and alleged use of excessive force against two women and their infant children near the National Mall. The court grants dismissal with prejudice of the Bivens and negligence claims, dismisses the intentional-infliction-of-emotional-distress claims without prejudice with leave to amend, and permits limited jurisdictional discovery concerning negligent training, supervision, and retention claims. The opinion applies the Supreme Court’s modern Bivens framework, including the D.C. Circuit’s decision in *Jones v. U.S. Secret Service*.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Loren L. AliKhan
JURISDICTION	United States District Court for the District of Columbia
DECIDED	March 26, 2026
DOCKET	Civil Action No. 23-2123 (LLA)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought Bivens and Federal Tort Claims Act claims arising from an encounter with Secret Service and Park Police officers. Defendants moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(1) motion, plaintiffs bear the burden of establishing subject-matter jurisdiction by a preponderance of the evidence, and the court may consider materials outside the pleadings. On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and asks whether the complaint states a facially plausible claim for relief.
PRECEDENTIAL VALUE	Published district court memorandum opinion
PARTIES	Yasmeen Winston, India Johnson v. Gregory T. Monahan, U.S. Park Police, U.S. Secret Service, Scott H. Brecht, Jessica Taylor, Sean M. Curran, James M. Murray, Kimberly A. Cheatle, Daniel Mitchell,

TOPICS

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remedies

PRACTICE AREAS

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federal jurisdiction

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federal tort claims

civil procedure

QUESTIONS PRESENTED

1. Whether plaintiffs' Fourth Amendment damages claims against Secret Service and Park Police officers present a new Bivens context and, if so, whether special factors foreclose a Bivens remedy.
2. Whether the Westfall Act required substitution of the United States as the sole defendant on the FTCA claims.
3. Whether the FTCA's discretionary-function exception deprived the court of subject-matter jurisdiction over the negligent training, supervision, and retention claims, or whether limited jurisdictional discovery was appropriate.
4. Whether plaintiffs adequately pleaded severe emotional distress to state IIED claims under District of Columbia law.
5. Whether plaintiffs' negligence claims were impermissibly based on the same intentional conduct underlying their Fourth Amendment and IIED claims.
6. Whether plaintiffs' voluntary withdrawal required dismissal of their pattern-and-practice claims.

HOLDINGS

1. Plaintiffs' Fourth Amendment claims arose in a new Bivens context because they involved a public vehicle encounter, Secret Service and Park Police officers operating under distinct mandates, and circumstances meaningfully different from Bivens. Alternative administrative remedies constituted a special factor foreclosing extension of Bivens, so the claims were dismissed with prejudice.
2. The United States was properly substituted as the sole defendant for the FTCA claims, and the individual defendants were dismissed from those claims.
3. Dismissal of the negligent training, supervision, and retention claims was premature. Plaintiffs were entitled to limited jurisdictional discovery concerning whether Secret Service or Park Police policies or directives imposed mandatory obligations relevant to the claims.
4. Plaintiffs adequately alleged extreme and outrageous conduct but failed to plead sufficient facts showing severe emotional distress. The IIED claims were dismissed without prejudice, with leave to amend.
5. Plaintiffs' negligence claims were dismissed with prejudice because they were based on the same alleged conduct as their Fourth Amendment and IIED claims and did not identify a distinct factual scenario or separate standard of care.

KEY QUOTATIONS

“creating implied causes of action under Bivens is ‘a disfavored judicial activity.’” (8)

“Because Plaintiffs’ Bivens claims arise in a “new context” and there is at least one “special factor” weighing against recognizing an implied remedy, the court will dismiss Plaintiffs’ Fourth Amendment claims.” (18)

“The exception does not apply “if a ‘federal statute, regulation, or policy specifically prescribes a course of action for an employee to follow,’ because ‘the employee has no rightful option but to adhere to the directive.’” (23)

“negligence must be distinctly pled and based upon at least one factual scenario that presents an aspect of negligence apart from’ the intentional tort ‘itself and [that is] violative of a distinct standard of care.’” (35)

FACTUAL BACKGROUND

Plaintiffs Yasmeen Winston and India Johnson were parked near the National Mall with their infant children when a Secret Service vehicle allegedly rammed Johnson's vehicle. Officers drew weapons, ordered the women out, handcuffed and detained them for approximately an hour, kept them separated from their children, searched the vehicle, and retained Johnson's title and registration. Plaintiffs alleged Fourth Amendment violations and tort claims based on the encounter, including negligent training and supervision, intentional infliction of emotional distress, and negligence.

PROCEDURAL HISTORY

Plaintiffs filed the action on July 21, 2023. Defendants moved to dismiss in February 2024 and submitted a Westfall Act certification. Plaintiffs voluntarily dismissed their pattern-and-practice claims. The court stayed the case pending the D.C. Circuit's decision in *Jones v. U.S. Secret Service*, 143 F.4th 489 (D.C. Cir. 2025), permitted supplemental briefing, and then ruled on the fully briefed motion. The court granted dismissal of the Bivens and negligence claims with prejudice, dismissed the IIED claims without prejudice with leave to amend, denied dismissal of the negligent training, supervision, and retention claims as premature, and authorized limited jurisdictional discovery.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Plaintiffs may file an amended complaint concerning the IIED claims by April 9, 2026. The parties must meet, confer, and file a joint status report by April 23, 2026 proposing a schedule for limited jurisdictional discovery concerning the negligent training, supervision, and retention claims.

CASES CITED

- *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)

- *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971)
- *Carlson v. Green*, 446 U.S. 14 (1980)
- *Davis v. Passman*, 442 U.S. 228 (1979)
- *Ziglar v. Abbasi*, 582 U.S. 120 (2017)
- *Egbert v. Boule*, 596 U.S. 482 (2022)
- *Jones v. U.S. Secret Service*, 143 F.4th 489 (D.C. Cir. 2025)
- *Buchanan v. Barr*, 71 F.4th 1003 (D.C. Cir. 2023)
- *Hernández v. Mesa*, 589 U.S. 93 (2020)
- *Loumiet v. United States*, 948 F.3d 376 (D.C. Cir. 2020)
- *Florida v. Jardines*, 569 U.S. 1 (2013)
- *Robinson v. Pilgram*, 2021 WL 5987016 (D.D.C. Dec. 17, 2021)
- *Lovett v. United States*, 2024 WL 4286054 (D.D.C. Sept. 25, 2024)
- *Kaur v. Kellenberger*, 2025 WL 1676005 (D.D.C. June 13, 2025)
- *Hicks v. Ferreyra*, 64 F.4th 156 (4th Cir. 2023)
- *United States v. Gaubert*, 499 U.S. 315 (1991)
- *Berkovitz ex rel. Berkovitz v. United States*, 486 U.S. 531 (1988)
- *Ignatiev v. United States*, 238 F.3d 464 (D.C. Cir. 2001)
- *Loughlin v. United States*, 393 F.3d 155 (D.C. Cir. 2004)
- *Burkhart v. Washington Metropolitan Area Transit Authority*, 112 F.3d 1207 (D.C. Cir. 1997)
- *United States v. S.A. Empresa de Viacao Aerea Rio Grandense (Varig Airlines)*, 467 U.S. 797 (1984)
- *Robertson v. District of Columbia*, 269 A.3d 1022 (D.C. 2022)
- *Competitive Enterprise Institute v. Mann*, 150 A.3d 1213 (D.C. 2016)
- *Chen v. District of Columbia*, 256 F.R.D. 267 (D.D.C. 2009)
- *District of Columbia v. Chinn*, 839 A.2d 701 (D.C. 2003)
- *Stewart-Veal v. District of Columbia*, 896 A.2d 232 (D.C. 2006)
- *Roe v. Doe*, 401 F. Supp. 3d 159 (D.D.C. 2019)

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