

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Clancy v. McCabe

441 Mass. 311 (2004) · Decided March 26, 2004

SUMMARY

The Massachusetts Supreme Judicial Court reviewed the denial of summary judgment to a former Massachusetts public safety commissioner in a 42 U.S.C. § 1983 supervisory-liability action. The court held that the commissioner’s six-month unpaid suspension and referral of a state trooper to a departmental stress unit did not constitute deliberate indifference as a matter of law and that the required affirmative causal link was not shown. The court reversed and directed entry of judgment for the defendant based on qualified immunity.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                    |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Judicial Court of Massachusetts                                                                                                                                                                                                                                                                                            |
| WRITING FOR THE COURT | Spina, J.; Ireland, J.                                                                                                                                                                                                                                                                                                             |
| JURISDICTION          | Massachusetts                                                                                                                                                                                                                                                                                                                      |
| DECIDED               | March 26, 2004                                                                                                                                                                                                                                                                                                                     |
| DISPOSITION           | reversed                                                                                                                                                                                                                                                                                                                           |
| PROCEDURAL POSTURE    | Interlocutory appeal from the denial of the defendant's motion for summary judgment asserting qualified immunity in a 42 U.S.C. § 1983 supervisory-liability action; further appellate review granted after the Appeals Court affirmed.                                                                                            |
| STANDARD OF REVIEW    | Summary judgment is reviewed to determine whether the plaintiff presented sufficient evidence to create a genuine issue of material fact and whether the defendant was entitled to judgment as a matter of law. Qualified immunity is an objective question of legal reasonableness ordinarily resolved by the court before trial. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                     |
| PARTIES               | McCabe v. Clancy                                                                                                                                                                                                                                                                                                                   |

TOPICS

- qualified immunity
- section 1983
- government liability
- summary judgment
- civil rights

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the evidence created a genuine issue of material fact that McCabe acted with deliberate or reckless and callous indifference to female motorists' constitutional rights.
2. Whether McCabe's actions and omissions were affirmatively linked to Rivera's later constitutional violation and Clancy's injuries.
3. Whether McCabe was entitled to qualified immunity from Clancy's § 1983 supervisory-liability claim.

## HOLDINGS

1. McCabe's six-month unpaid suspension of Rivera and order that he receive counseling through the State police stress unit did not, as a matter of law, constitute reckless, callous, or deliberate indifference to the constitutional rights of female motorists.
2. Clancy failed to establish the required affirmative link between McCabe's conduct and Rivera's later violation of her constitutional rights.
3. McCabe was entitled to qualified immunity because a reasonable official could have believed that his disciplinary and supervisory actions were lawful in light of clearly established law and the information available to him.

## KEY QUOTATIONS

*“A supervisor may be liable under § 1983 if his “conduct or inaction amounted to a reckless or callous indifference to the constitutional rights of others.”” (317)*

*“To demonstrate deliberate indifference a plaintiff must show (1) a grave risk of harm, (2) [McCabe’s] actual or constructive knowledge of that risk, and (3) his failure to take easily available measures to address the risk.” (318)*

*“Denying summary judgment in order to permit inquiries into McCabe’s subjective state of mind contravenes the Supreme Court’s intent to restrict the question of qualified immunity to “an objective inquiry into the legal reasonableness of the official action.”” (322)*

## FACTUAL BACKGROUND

In 1987, four female motorists reported that State Trooper Ramon Rivera engaged in improper conduct during traffic stops, including personal advances, touching, prolonged detention, and threats. After an internal-affairs investigation, McCabe, the Commissioner of Public Safety and superintendent of State police, initially agreed with a recommendation that Rivera be terminated, but ultimately imposed a six-month unpaid suspension and ordered Rivera to report to the State police stress unit for counseling. Rivera later returned to unrestricted road duty, and in 1992 he illegally strip-searched and made lewd and suggestive remarks to Clancy during a traffic stop.

## PROCEDURAL HISTORY

Clancy sued McCabe under 42 U.S.C. § 1983, alleging that he was deliberately indifferent to the constitutional rights of female motorists by failing to recommend State Trooper Rivera's termination. The Superior Court denied McCabe's motion for summary judgment, finding sufficient evidence for a jury on deliberate indifference. The Appeals Court affirmed, concluding that McCabe's supervisory response could reasonably be viewed as grossly inadequate. The Supreme Judicial Court granted further appellate review, reversed, and ordered judgment for McCabe.

## DISPOSITION

reversed

## REMAND INSTRUCTIONS

The order denying McCabe's motion for summary judgment is reversed, and judgment is to enter for McCabe.

## CASES CITED

- Breault v. Chairman of the Board of Fire Commissioners of Springfield, 401 Mass. 26, 30-31 (1987), cert. denied sub nom. Forastiere v. Breault, 485 U.S. 906 (1988)
- Febus-Rodriguez v. Betancourt-Lebron, 14 F.3d 87, 91-94 (1st Cir. 1994)
- Dobos v. Driscoll, 404 Mass. 634, 646-650, 657-658 (1989), cert. denied sub nom. Kehoe v. Dobos, 493 U.S. 850 (1989)
- Gutierrez-Rodriguez v. Cartagena, 882 F.2d 553, 562-563 (1st Cir. 1989)
- Lipsett v. University of Puerto Rico, 864 F.2d 881, 902, 914 (1st Cir. 1988)
- Barreto-Rivera v. Medina-Vargas, 168 F.3d 42, 48-49 (1st Cir. 1999)
- Germany v. Vance, 868 F.2d 9, 18 (1st Cir. 1989)
- Camilo-Robles v. Hoyos, 151 F.3d 1, 7 (1st Cir. 1998), cert. denied, 525 U.S. 1105 (1999)
- Manarite v. Springfield, 957 F.2d 953, 956 (1st Cir. 1992), cert. denied, 506 U.S. 837 (1992)
- County Commissioners of Bryan County v. Brown, 520 U.S. 397, 410 (1997)
- Shaw v. Stroud, 13 F.3d 791, 800-801 (4th Cir. 1994), cert. denied, 513 U.S. 813, 814 (1994)
- Wellington v. Daniels, 717 F.2d 932, 936 (4th Cir. 1983)
- Morrison v. Northern Essex Community College, 56 Mass. App. Ct. 784, 800 (2002)
- Rogers v. Little Rock, 152 F.3d 790, 800 (8th Cir. 1998)
- Jones v. Wellham, 104 F.3d 620, 626-627 (4th Cir. 1997)
- Canton v. Harris, 489 U.S. 378, 392 (1989)
- Hunter v. Bryant, 502 U.S. 224, 228 (1991)
- Anderson v. Creighton, 483 U.S. 635, 640 n.2, 641, 645 (1987)
- Harlow v. Fitzgerald, 457 U.S. 800, 807, 815-820 (1982)
- Butz v. Economou, 438 U.S. 478, 506 (1978)
- Wood v. Strickland, 420 U.S. 308, 322 (1975)
- Camilo-Robles v. Zapata, 175 F.3d 41, 46 n.2 (1st Cir. 1999)

- *Kourouvacilis v. General Motors Corp.*, 410 Mass. 706, 716 (1991)
- *Commonwealth v. Rivera*, 44 Mass. App. Ct. 1118 (1998)
- *Clancy v. McCabe*, 58 Mass. App. Ct. 498, 500-502, 508, 511-512 (2003)

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