

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
PENNSYLVANIA

Barrett Tunsil v. Correctional Officer Taylor, et al.

Barrett Tunsil v. Correctional Officer Taylor, No. 1:25-CV-00879 (M.D. Pa. Dec. 4, 2025) · No. 1:25-CV-00879
· Decided December 4, 2025

SUMMARY

The United States District Court for the Middle District of Pennsylvania dismissed Barrett Tunsil’s amended 42 U.S.C. § 1983 complaint with prejudice for failure to state a claim. The court held that the complaint did not allege personal involvement by certain supervisory defendants, that verbal threats and harassment without a reinforcing act were not actionable under § 1983, that the Prison Rape Elimination Act provides no private right of action, and that private citizens cannot initiate criminal proceedings.

CASE DETAILS

COURT	United States District Court for the Middle District of Pennsylvania
WRITING FOR THE COURT	Jennifer P. Wilson
JURISDICTION	United States District Court for the Middle District of Pennsylvania
DECIDED	December 4, 2025
DOCKET	1:25-CV-00879
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court screened Plaintiff's amended in forma pauperis complaint under 28 U.S.C. § 1915(e)(2)(B)(ii).
STANDARD OF REVIEW	The court applied the failure-to-state-a-claim standard under 28 U.S.C. § 1915(e)(2)(B)(ii), which it stated is identical to the Rule 12(b)(6) standard. Well-pleaded allegations were accepted as true and reasonable inferences were construed in favor of the nonmoving party, while the pro se pleading was liberally construed.
PRECEDENTIAL VALUE	unpublished district court memorandum; nonprecedential
PARTIES	Barrett Tunsil v. Correctional Officer Taylor, Correctional Officer Morgan, Ms. Quist, Laurel Harry, Booher

TOPICS

section 1983

prisoners rights

motions to dismiss

civil procedure

constitutional law

PRACTICE AREAS

civil rights

prisoner litigation

constitutional law

civil procedure

QUESTIONS PRESENTED

1. Whether the amended complaint stated a § 1983 claim against Quist, Harry, and Booher when it alleged no personal involvement by those defendants.
2. Whether alleged verbal threats and racial and sexual harassment, without physical injury, damage, or an accompanying reinforcing act, stated a constitutional claim under § 1983.
3. Whether the Prison Rape Elimination Act provides a private cause of action.
4. Whether a private citizen may initiate criminal proceedings against defendants through a civil complaint.
5. Whether the pending motions for recusal, protection from abuse, appointment of counsel, and injunctive relief should be denied as moot after dismissal of the amended complaint.

HOLDINGS

1. The amended complaint failed to state a § 1983 claim against Quist, Harry, and Booher because it alleged no personal involvement by them and did not plead facts supporting supervisory liability.
2. The alleged verbal threats and racial and sexual harassment did not state a constitutional claim under § 1983 because Tunsil alleged no physical injury, damage, or reinforcing act accompanying the statements.
3. The Prison Rape Elimination Act does not provide a private right of action, so any PREA claim was dismissed.
4. Tunsil could not initiate criminal proceedings against the defendants because private citizens lack standing to institute criminal prosecutions.
5. The motions for recusal, protection from abuse, appointment of counsel, and injunctive relief were denied as moot because the operative complaint was dismissed with prejudice.

KEY QUOTATIONS

“Under 28 U.S.C. § 1915(e)(2)(B)(ii), a court “shall dismiss” an in forma pauperis case “at any time if the court determines that . . . the action . . . fails to state a claim upon which relief may be granted[.]””
(Standard)

“It is well-settled that the use of words, no matter how violent, is not actionable under 42 U.S.C. § 1983.”
(Discussion § A.2)

“PREA does not provide a private right of action, and Plaintiff is, therefore, prohibited from asserting a claim pursuant to PREA.” (Discussion § A.3)

FACTUAL BACKGROUND

While incarcerated at SCI-Benner, Tunsil alleged that Correctional Officers Taylor and Morgan verbally harassed and threatened him over the intercom after he asked why he had not received a Christmas bag. He alleged that the statements were racially and sexually derogatory, but did not allege physical injury, damage, or a reinforcing act accompanying the statements. Tunsil named Quist, Harry, and Booher as defendants but did not allege facts showing their personal involvement in the asserted misconduct.

PROCEDURAL HISTORY

Tunsil initially filed a § 1983 complaint alleging verbal harassment, threats, and failure to intervene or investigate a PREA allegation. The court dismissed the original complaint for failure to state a claim but granted leave to amend. After reviewing the amended complaint, the court concluded that Tunsil again failed to allege personal involvement by three defendants, an actionable constitutional injury from verbal threats and harassment, a private right of action under PREA, or a basis for private criminal prosecution. The court dismissed the amended complaint with prejudice, denied the pending motions as moot, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Grayson v. Mayview State Hosp., 293 F.3d 103, 109-10 & n.11 (3d Cir. 2002)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 556, 570 (2007)
- Doe v. Univ. of the Scis., 961 F.3d 203, 208 (3d Cir. 2020)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Higgs v. Att'y Gen., 655 F.3d 333, 339 (3d Cir. 2011)
- Phillips v. Cnty. of Allegheny, 515 F.3d 224, 245 (3d Cir. 2008)
- West v. Atkins, 487 U.S. 42, 48 (1988)
- Baraka v. McGreevey, 481 F.3d 187, 210 (3d Cir. 2007)
- Carter v. City of Philadelphia, 181 F.3d 339, 356-57 (3d Cir. 1999)
- Brown v. Muhlenberg Twp., 269 F.3d 205, 216 (3d Cir. 2001)
- Sample v. Diecks, 885 F.2d 1099, 1118 (3d Cir. 1989)
- Marten v. Hunt, 479 F. App'x 436 (3d Cir. 2012)
- Lewis v. Wetzel, 153 F. Supp. 3d 678 (M.D. Pa. 2015)
- Harris v. Ferguson, No. 3:16-cv-1965, 2017 WL 3611752, at *4-5 (M.D. Pa. Aug. 22, 2017)
- Maclean v. Secor, 876 F. Supp. 695, 698-99 (E.D. Pa. 1995)
- Washington v. Folino, 2013 WL 998013, at *4 (W.D. Pa. Feb. 28, 2013)
- Nestor v. Dir. of Ne. Region Bureau of Prisons, 2012 WL 6691791, at *3 (D.N.J. Dec. 20, 2012)
- United States v. Wegeler, 941 F.3d 665, 668 (3d Cir. 2019)
- Linda R.S. v. Richard D., 410 U.S. 614, 619 (1973)

- *Fulton v. City of Philadelphia*, 922 F.3d 140, 152 (3d Cir. 2019), rev'd on other grounds, 141 S. Ct. 1868 (2021)
- *Tabron v. Grace*, 6 F.3d 147, 153 (3d Cir. 1993)

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