

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Russell v. Scott

Russell · No. 24-3312 · Decided March 19, 2026

SUMMARY

The United States Court of Appeals for the Second Circuit reviews an interlocutory appeal from the denial of qualified immunity in a Fourteenth Amendment sexual-abuse claim brought by a pretrial detainee. The court holds that intentional contact with a pretrial detainee’s genitalia or intimate area violates the Fourteenth Amendment when it lacks a legitimate nonpunitive purpose or is excessive in relation to that purpose. The court affirms the denial of qualified immunity, dismisses the remaining aspects of the appeal for lack of jurisdiction, and remands.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Myrna Pérez; Bianco, Circuit Judge; Pérez, Circuit Judge; Merriam, Circuit Judge
JURISDICTION	United States Court of Appeals for the Second Circuit
DECIDED	March 19, 2026
DOCKET	24-3312
DISPOSITION	other
PROCEDURAL POSTURE	Interlocutory appeal from the denial of summary judgment based on qualified immunity in a civil-rights action brought by a pretrial detainee alleging sexual abuse in violation of the Fourteenth Amendment.
STANDARD OF REVIEW	The court reviewed de novo the denial of summary judgment on qualified-immunity grounds. On interlocutory review, it could decide only legal issues, accepting the facts favorable to the plaintiff that the District Court concluded a jury might find; it lacked jurisdiction to review evidentiary sufficiency or whether factual disputes were genuine.
PRECEDENTIAL VALUE	Published and precedential opinion of the Second Circuit
PARTIES	Jason Scott v. Justin Russell

TOPICS

qualified immunity

fourteenth amendment

appellate jurisdiction

interlocutory appeal

summary judgment

PRACTICE AREAS

constitutional law

civil rights

corrections law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the Second Circuit had interlocutory jurisdiction to review Scott's arguments concerning PLRA exhaustion and the credibility or sufficiency of Russell's evidence.
2. Whether, accepting the facts favorable to Russell, Scott's alleged intentional contact with Russell's genitals violated Russell's clearly established Fourteenth Amendment rights.
3. Whether Scott was entitled to qualified immunity on Russell's Fourteenth Amendment sexual-abuse claim.

HOLDINGS

1. The court lacked interlocutory appellate jurisdiction to review whether Russell exhausted administrative remedies under the PLRA because exhaustion is a nonjurisdictional affirmative defense and Scott did not establish a basis for appellate jurisdiction.
2. The court lacked jurisdiction to review Scott's challenge to the credibility and evidentiary sufficiency of Russell's testimony.
3. An officer's intentional contact with a pretrial detainee's genitalia or other intimate area violates the Fourteenth Amendment when it does not serve a legitimate nonpunitive purpose or is excessive in relation to that purpose; the claim is governed by an objective reasonableness standard rather than the Eighth Amendment sexual-abuse test.
4. Accepting Russell's account, Scott's grabbing, squeezing, and twisting of Russell's penis was objectively unreasonable and violated the Fourteenth Amendment.
5. Scott was not entitled to qualified immunity because, by 2019, it was clearly established that a pretrial detainee could not be subjected to objectively unreasonable or punitive treatment, including genital contact unjustified by a legitimate nonpunitive purpose or excessive in relation to that purpose.

KEY QUOTATIONS

"Therefore, an officer's intentional contact with a pretrial detainee's genitalia or intimate area, which does not serve a legitimate nonpunitive purpose or is excessive in relation to that legitimate nonpunitive purpose, violates the Fourteenth Amendment." (3-4)

"The Fourteenth Amendment guarantees that any contact with a pretrial detainee's genitals, or other intimate body part, must be justified by a legitimate nonpunitive interest and cannot be excessive in relation to that interest." (23)

"Those basic principles amount to a simple and well-established proposition: officer contact with a pretrial detainee must always be objectively reasonable." (24)

“We AFFIRM the District Court’s order to the extent that it denied Scott’s motion for summary judgment based on qualified immunity. We REMAND this matter to the District Court for further proceedings consistent with this opinion.” (33)

FACTUAL BACKGROUND

Justin Russell was a pretrial detainee at Southern State Correctional Facility, where Jason Scott worked as a corrections officer. During a medication-assisted-treatment procedure, Russell alleged that Scott reached into his pants and grabbed, squeezed, and twisted his penis under the pretense of searching for diverted medication, causing rug burn, redness, and scabbing. Russell further alleged that Scott made a taunting remark and slammed a door on his arm; witnesses supported his account of the genital contact, and Russell filed grievances and reported the incident to a prison investigator.

PROCEDURAL HISTORY

Russell sued Scott and others under the Eighth and Fourteenth Amendments and Vermont law. The District Court granted Scott summary judgment on Russell's Eighth Amendment claim, Fourteenth Amendment excessive-force claim concerning a slammed door, and state-law claims, but denied summary judgment on the Fourteenth Amendment sexual-abuse claim and allowed amendment to add a state-law battery claim. Scott brought an interlocutory appeal. The Second Circuit dismissed portions of the appeal concerning PLRA exhaustion and challenges to factual determinations for lack of jurisdiction, affirmed the denial of qualified immunity, and remanded.

DISPOSITION

other

REMAND INSTRUCTIONS

Dismiss Scott's appeal for lack of jurisdiction insofar as it raises PLRA-exhaustion arguments or contests the District Court's factual determinations; affirm the District Court's denial of summary judgment based on qualified immunity; and remand for further proceedings consistent with the opinion.

CASES CITED

- Russell v. Scott, 20-cv-184, 2024 WL 4988941, at *1-2 (D. Vt. Apr. 10, 2024)
- Russell v. Scott, 20-cv-184, 2024 WL 4825956, at *1-9 (D. Vt. Nov. 19, 2024)
- Coollick v. Hughes, 699 F.3d 211, 219 (2d Cir. 2012)
- Washington v. Napolitano, 29 F.4th 93, 103 (2d Cir. 2022)
- Jok v. City of Burlington, 96 F.4th 291, 293-95 (2d Cir. 2024)
- Behrens v. Pelletier, 516 U.S. 299, 313 (1996)
- Digital Equipment Corp. v. Desktop Direct, Inc., 511 U.S. 863, 867-68 (1994)
- Cobbledick v. United States, 309 U.S. 323, 326 (1940)
- Salim v. Proulx, 93 F.3d 86, 90 (2d Cir. 1996)

- Escalera v. Lunn, 361 F.3d 737, 743 (2d Cir. 2004)
- In re State Police Litigation, 88 F.3d 111, 124 (2d Cir. 1996)
- Messa v. Goord, 652 F.3d 305, 309 (2d Cir. 2011)
- Savino v. City of New York, 331 F.3d 63, 71-72 (2d Cir. 2003)
- Swint v. Chambers County Commission, 514 U.S. 35, 51 (1995)
- Jeffreys v. City of New York, 426 F.3d 549, 554 (2d Cir. 2005)
- Pearson v. Callahan, 555 U.S. 223, 231 (2009)
- Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)
- Vega v. Semple, 963 F.3d 259, 272 (2d Cir. 2020)
- National Rifle Association of America v. Vullo, 144 F.4th 376, 389-90 (2d Cir. 2025)
- Tanvir v. Tanzin, 120 F.4th 1049, 1060 (2d Cir. 2024)
- Darnell v. Pineiro, 849 F.3d 17, 29, 35 (2d Cir. 2017)
- Iqbal v. Hasty, 490 F.3d 143, 168 (2d Cir. 2007)
- City of Revere v. Massachusetts General Hospital, 463 U.S. 239, 244 (1983)
- Crawford v. Cuomo, 796 F.3d 252, 254, 256-60 (2d Cir. 2015)
- Boddie v. Schnieder, 105 F.3d 857, 859 (2d Cir. 1997)
- Harris v. Miller, 818 F.3d 49, 63-65 (2d Cir. 2016)
- Hudson v. McMillian, 503 U.S. 1, 9-10 (1992)
- Graham v. Connor, 490 U.S. 386, 395 n.10, 396 (1989)
- Almighty Supreme Born Allah v. Milling, 876 F.3d 48, 55 (2d Cir. 2017)
- Ricks v. Shover, 891 F.3d 468, 473-75 (3d Cir. 2018)
- Hale v. Boyle County, 18 F.4th 845, 852-53 (6th Cir. 2021)
- Bearchild v. Cobban, 947 F.3d 1130, 1140 (9th Cir. 2020)
- Brown v. Flowers, 974 F.3d 1178, 1182-83 (10th Cir. 2020)
- Barney v. Pulsipher, 143 F.3d 1299, 1310 (10th Cir. 1998)
- Florence v. Board of Chosen Freeholders, 566 U.S. 318, 330-32 (2012)
- Hayes v. Dahlke, 976 F.3d 259, 275 (2d Cir. 2020)
- Galloway v. County of Nassau, 141 F.4th 417, 423 (2d Cir. 2025)
- Reichle v. Howards, 566 U.S. 658, 664 (2012)
- Mullenix v. Luna, 577 U.S. 7, 12 (2015)
- Ashcroft v. al-Kidd, 563 U.S. 731, 742 (2011)
- Radwan v. Manuel, 55 F.4th 101, 114 (2d Cir. 2022)
- Saucier v. Katz, 533 U.S. 194, 202 (2001)