

SUPREME COURT OF RHODE ISLAND

Laurence v. Sollitto

788 A.2d 455 (R.I. 2002) · No. No. 2000-307-Appeal · Decided January 9, 2002

SUMMARY

The Supreme Court of Rhode Island affirmed dismissal of Norman Laurence's claims against his court-appointed criminal defense attorney. The court held that appointed defense counsel does not act under color of state law for purposes of 42 U.S.C. § 1983 and that Laurence's civil rights claims were also barred because his conviction had not been overturned. The court further held that the legal malpractice complaint failed to plead the required causation element and did not establish a cognizable negligence claim.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Goldberg, Justice; Lederberg, J.; Bourcier, J.; Flanders, J.; Goldberg, J.
JURISDICTION	Rhode Island
DECIDED	January 9, 2002
DOCKET	No. 2000-307-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a final Superior Court judgment granting defendant's motion to dismiss the complaint under Superior Court Rules of Civil Procedure 12(b)(1) and 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the legal sufficiency of the complaint, assumes the allegations are true, and resolves doubts in the plaintiff's favor; dismissal is proper only when it appears beyond a reasonable doubt that the plaintiff would not be entitled to relief under any conceivable set of facts. If extraneous materials are not excluded, the motion must be treated as one for summary judgment, with a reasonable opportunity for the parties to respond.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Norman Laurence v. Russell Sollitto

TOPICS

motions to dismiss

section 1983

professional negligence

civil rights

appellate procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

Civil rights

Legal malpractice

Criminal procedure

QUESTIONS PRESENTED

1. Whether Laurence's 42 U.S.C. § 1983 claim against his court-appointed defense attorney stated a cognizable claim when the attorney was not acting under color of state law.
2. Whether Laurence could maintain a § 1983 damages action attacking the validity of his conviction while the conviction remained unreversed and the criminal appeal was pending.
3. Whether Laurence's attorney-malpractice complaint stated a claim when it failed to allege the causation requirement that the attorney's negligence caused the wrongful conviction or that Laurence was innocent of the underlying crimes.
4. Whether the Superior Court improperly considered extraneous materials in deciding the Rule 12(b)(6) motion without first giving Laurence a reasonable opportunity to respond.

HOLDINGS

1. A court-appointed attorney performing the traditional functions of defense counsel is not acting under color of state law merely because the attorney was appointed by a court; therefore, the attorney is not subject to a § 1983 damages action on that basis.
2. Before a litigant may institute a § 1983 claim for constitutional deprivations connected to a criminal prosecution, the conviction must first be overturned on direct appeal or in collateral proceedings when success on the claim would imply the invalidity of the conviction or sentence.
3. The malpractice complaint failed to state a claim because it did not allege the required causation element, including that Laurence's alleged attorney negligence caused the wrongful conviction or that he was innocent of the underlying charges.
4. Any error in considering extraneous materials without first giving Laurence a reasonable opportunity to respond was harmless because the fatal defects in the complaint were apparent from its face.

KEY QUOTATIONS

"[T]he sole function of a motion to dismiss is to test the sufficiency of the complaint." (at 456)

*"The motion may then only be granted if it `appears beyond a reasonable doubt that a plaintiff would not be entitled to relief under any conceivable set of facts * * *.'" (at 456)*

"The purpose of a Rule 12(b)(6) motion is to test the legal sufficiency of the complaint, which must be determined without resort to extraneous materials." (at 457)

"Accordingly, in performing a lawyer's traditional functions as counsel to an indigent accused, a court-appointed attorney is not acting under color of state law." (at 458)

“We thus hold, that before a litigant may institute a 42 U.S.C. § 1983 claim for alleged constitutional deprivations in connection with a criminal prosecution, the conviction must first be overturned on appeal or in collateral proceedings.” (at 459)

FACTUAL BACKGROUND

Laurence was indicted for conspiracy to murder and first-degree murder and was represented by Sollitto, a court-appointed attorney, from February through November 1998. Sollitto withdrew after a hearing on a motion to suppress Laurence's confession; Laurence later proceeded pro se, was convicted, and received a life sentence without parole for murder and a ten-year sentence for conspiracy. While his criminal appeal was pending, Laurence sued Sollitto for attorney malpractice and civil-rights violations, seeking compensatory and punitive damages.

PROCEDURAL HISTORY

Laurence, who had been convicted of murder and conspiracy to murder while his criminal appeal was pending, sued his court-appointed defense attorney for attorney malpractice and violations of 42 U.S.C. § 1983. The Superior Court dismissed the complaint for failure to state a cognizable claim. The Supreme Court denied and dismissed the appeal and affirmed the judgment.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The papers in the case were remanded to the Superior Court.

CASES CITED

- Rhode Island Affiliate, ACLU, Inc. v. Bernasconi, 557 A.2d 1232, 1232 (R.I. 1989)
- Brunelle v. Town of South Kingstown, 700 A.2d 1075, 1081 (R.I. 1997)
- Parratt v. Taylor, 451 U.S. 527, 535 (1981)
- Polk County v. Dodson, 454 U.S. 312, 318 (1981)
- Page v. Sharpe, 487 F.2d 567, 570 (1st Cir. 1973)
- Szijarto v. Legeman, 466 F.2d 864 (9th Cir. 1972)
- French v. Corrigan, 432 F.2d 1211, 1214 (7th Cir. 1970), cert. denied, 401 U.S. 915 (1971)
- Mulligan v. Schlachter, 389 F.2d 231, 233 (6th Cir. 1968)
- Heck v. Humphrey, 512 U.S. 477, 486-487 (1994)
- Macera Brothers of Cranston, Inc. v. Gelfuso & Lachut, Inc., 740 A.2d 1262, 1264 (R.I. 1999)
- Vallinoto v. DeSandro, 688 A.2d 830, 836 (R.I. 1997)
- State v. Macarelli, 118 R.I. 693, 375 A.2d 944, 946 (1977)
- Glenn v. Aiken, 409 Mass. 699, 569 N.E.2d 783, 788 (1991)

- *Streeter v. Young*, 583 So. 2d 1339 (Ala. 1991)
- *Shaw v. State Department of Administration*, 816 P.2d 1358 (Alaska 1991)
- *Steele v. Kehoe*, 747 So. 2d 931 (Fla. 1999)
- *Rodriguez v. Nielsen*, 259 Neb. 264, 609 N.W.2d 368 (2000)
- *Morgano v. Smith*, 110 Nev. 1025, 879 P.2d 735 (1994)
- *Carmel v. Lunney*, 70 N.Y.2d 169, 518 N.Y.S.2d 605, 511 N.E.2d 1126 (1987)
- *Stevens v. Bispham*, 316 Or. 221, 851 P.2d 556 (1993)
- *Bailey v. Tucker*, 533 Pa. 237, 621 A.2d 108 (1993)
- *Peeler v. Hughes & Luce*, 868 S.W.2d 823 (Tex. App. 1993), *aff'd*, 909 S.W.2d 494 (Tex. 1995)