

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Nicholas Zemlick v. Brad Burkhart

Zemlick · No. 24-2799 · Decided January 22, 2026

SUMMARY

The Seventh Circuit affirmed summary judgment for Hancock County Jail officials in Nicholas Zemlick’s § 1983 action alleging deliberate indifference to his medical needs under the Fourteenth Amendment. The court held that the sheriff lacked sufficient personal involvement, while the lieutenant and corporal were protected by qualified immunity because their conduct was not clearly established as unlawful. The court also addressed procedural waiver and the merits of Zemlick’s Monell claim concerning jail resources and training.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                               |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States Court of Appeals for the Seventh Circuit                                                                                                                                                                                                                                        |
| WRITING FOR THE COURT | Kolar; St. Eve; Lee                                                                                                                                                                                                                                                                           |
| JURISDICTION          | United States Court of Appeals for the Seventh Circuit                                                                                                                                                                                                                                        |
| DECIDED               | January 22, 2026                                                                                                                                                                                                                                                                              |
| DOCKET                | 24-2799                                                                                                                                                                                                                                                                                       |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Zemlick appealed the grant of summary judgment to the defendants on his claims under 42 U.S.C. § 1983 for deliberate indifference to medical needs and municipal liability.                                                                                                                   |
| STANDARD OF REVIEW    | De novo review of the grant of summary judgment; facts and justifiable inferences are construed in the nonmovant's favor, without weighing evidence or making credibility determinations. The district court's enforcement of its case-management order was reviewed for abuse of discretion. |
| PRECEDENTIAL VALUE    | Published precedential opinion                                                                                                                                                                                                                                                                |
| PARTIES               | Nicholas Zemlick v. Brad Burkhart, Matthew Boots, Luke Schmidt                                                                                                                                                                                                                                |

TOPICS

- section 1983
- qualified immunity
- prisoners rights
- fourteenth amendment
- municipal liability

## PRACTICE AREAS

civil rights

constitutional law

prisoners rights

appellate procedure

health law

## QUESTIONS PRESENTED

1. Whether Sheriff Brian Burkhart was personally involved in, or indirectly responsible for, a Fourteenth Amendment deliberate-indifference violation.
2. Whether Lieutenant Matthew Boots violated clearly established constitutional law, or was entitled to qualified immunity, by deferring to jail medical staff after receiving Zemlick's general complaints about his medical care.
3. Whether Corporal Luke Schmidt violated clearly established constitutional law, or was entitled to qualified immunity, by delaying Zemlick's transport to the hospital for approximately two hours and not calling an ambulance.
4. Whether Zemlick's Monell theory against Sheriff Burkhart was waived because it was not included in the required statement of claims and, alternatively, whether it failed for lack of evidence of a municipal policy, custom, training deficiency, or staffing shortfall causing a constitutional violation.

## HOLDINGS

1. Burkhart was entitled to summary judgment because the record contained no evidence that he personally participated in, facilitated, approved, condoned, or turned a blind eye to a constitutional deprivation. His approval of county payment for Zemlick's initial elective surgery did not establish personal responsibility for the alleged postoperative constitutional violation.
2. Boots was entitled to qualified immunity because, as of December 2020, clearly established law did not require a nonmedical jail officer to take additional action in response to general complaints from a detainee who was already housed near and receiving ongoing care from medical staff.
3. Schmidt was entitled to qualified immunity because clearly established law did not establish that a nonmedical jail officer violated a detainee's constitutional rights by relying on medical staff's determination that an ambulance was unnecessary and delaying officer transport for approximately two hours until a shift change.
4. The district court properly granted summary judgment on Zemlick's Monell claim because his revised failure-to-train theory was waived under the district court's case-management order and, in any event, neither that theory nor his original resource-allocation theory was supported by evidence of a municipal policy, widespread practice, custom, deliberate conduct, or causal link to a constitutional violation.

## KEY QUOTATIONS

*"To prevail on his claim for deliberate indifference to medical needs, Zemlick must establish, in addition to causation and harm, that: the defendants did not take reasonable available measures to abate the risk of serious harm to [Zemlick], even though reasonable officers under the circumstances would have understood the high degree of risk involved, making the consequences of the defendants' conduct obvious."* (6)

*“That means “government officials performing discretionary functions”—like jail officials managing pre-trial detainees—are immune from civil liability if their “conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.”” (7)*

*“nonmedical officers may be found deliberately indifferent if they have a reason to believe (or actual knowledge) that prison doctors or their assistants are mistreating (or not treating) a prisoner.” (10-11)*

*“In essence, Zemlick—in arguing to the contrary—advocates for a due process right to have a nonmedical jail officer veto the medical staff’s judgment about a detainee’s medical condition and to immediately take a detainee to the hospital at the detainee’s request.” (16)*

*“The record lacks any evidence of budget cuts, understaffing, or shortfalls in the jail’s training program constituting “deliberate conduct” that was the “moving force” behind a violation of Zemlick’s federal rights.” (19)*

## FACTUAL BACKGROUND

Nicholas Zemlick was detained at the Hancock County Jail after an elective colostomy-reversal surgery. During his postoperative recovery, he developed an abdominal infection, received antibiotics, and was eventually transported to a hospital for emergency surgery after jail medical staff determined that he needed hospital care. Zemlick alleged that Sheriff Brian Burkhart, Lieutenant Matthew Boots, and Corporal Luke Schmidt were deliberately indifferent to his medical needs, including by failing to ensure adequate jail resources, disregarding his complaints, and delaying his hospital transport. He recovered fully after the emergency surgery, and the record showed no later infection or complication.

## PROCEDURAL HISTORY

Zemlick sued the Hancock County Sheriff, two Sheriff’s office personnel, the entity employing jail medical personnel, and jail medical staff, alleging negligence and deliberate indifference to his medical needs under the Fourteenth Amendment and related claims. The district court granted summary judgment to all defendants on the federal claims and relinquished supplemental jurisdiction over the state-law claims. Zemlick settled with the medical staff defendants, leaving his claims against Burkhart, Boots, and Schmidt for appeal. The Seventh Circuit affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986)
- James v. Hale, 959 F.3d 307, 314 (7th Cir. 2020)
- Miller v. Gonzalez, 761 F.3d 822, 827 (7th Cir. 2014)
- Miranda v. County of Lake, 900 F.3d 335, 350 (7th Cir. 2018)
- Pittman v. Madison County, 108 F.4th 561, 564, 570, 572 (7th Cir. 2024)

- *Mullenix v. Luna*, 577 U.S. 7, 12 (2015)
- *District of Columbia v. Wesby*, 583 U.S. 48, 62-63 (2018)
- *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)
- *McGee v. Parsano*, 55 F.4th 563, 572-73 (7th Cir. 2022)
- *Whitfield v. Spiller*, 76 F.4th 698, 706 (7th Cir. 2023)
- *Gentry v. Duckworth*, 65 F.3d 555, 561 (7th Cir. 1995)
- *Jones v. City of Chicago*, 856 F.2d 985, 992 (7th Cir. 1988)
- *Camreta v. Greene*, 563 U.S. 692, 707 (2011)
- *Ashcroft v. al-Kidd*, 563 U.S. 731, 741 (2011)
- *Johnson v. Doughty*, 433 F.3d 1001, 1011-12 (7th Cir. 2006)
- *Berry v. Peterman*, 604 F.3d 435, 440 (7th Cir. 2010)
- *Greeno v. Daley*, 414 F.3d 645, 656 (7th Cir. 2005)
- *King v. Kramer*, 680 F.3d 1013, 1018 (7th Cir. 2012)
- *Riccardo v. Rausch*, 375 F.3d 521, 525 (7th Cir. 2004)
- *Estate of Perry v. Wentzel*, 872 F.3d 439, 458-59 (7th Cir. 2017)
- *Arnett v. Webster*, 658 F.3d 742, 756 (7th Cir. 2011)
- *Rosario v. Brawn*, 670 F.3d 816, 821 (7th Cir. 2012)
- *Daniels v. Williams*, 474 U.S. 327, 330-31 (1986)
- *Mitchell v. Kallas*, 895 F.3d 492, 500 (7th Cir. 2018)
- *Grieverson v. Anderson*, 538 F.3d 763, 779-80 (7th Cir. 2008)
- *Knight v. Wiseman*, 590 F.3d 458, 461-62, 466 (7th Cir. 2009)
- *Lewis v. McLean*, 864 F.3d 556, 564-65 (7th Cir. 2017)
- *Monell v. Department of Social Services*, 436 U.S. 658, 694 (1978)
- *Burks v. Raemisch*, 555 F.3d 592, 593 (7th Cir. 2009)
- *Dysland v. Shelter Moving & Storage, Inc.*, 2022 WL 18540516, at \*2 (S.D. Ind. Sept. 7, 2022)
- *Jackson v. Regions Bank*, 838 F. App'x 195, 198 (7th Cir. 2021)
- *Frakes v. Peoria School District No. 150*, 872 F.3d 545, 549 (7th Cir. 2017)
- *Hinterberger v. City of Indianapolis*, 966 F.3d 523, 528 (7th Cir. 2020)
- *Alioto v. Town of Lisbon*, 651 F.3d 715, 721 (7th Cir. 2011)
- *Elizarri v. Sheriff of Cook County*, 901 F.3d 787, 790-91 (7th Cir. 2018)
- *Keck Garrett & Associates v. Nextel Communications, Inc.*, 517 F.3d 476, 487 (7th Cir. 2008)
- *Walker v. Sheahan*, 526 F.3d 973, 977 (7th Cir. 2008)
- *Board of County Commissioners v. Brown*, 520 U.S. 397, 404 (1997)

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