

Courtney v. Holmes

United States Court of Appeals for the Sixth Circuit

February 5, 1999, Filed

No. 98-1068

Reporter

1999 U.S. App. LEXIS 2003 *

KENNETH A. COURTNEY, Plaintiff-Appellant, v. M. HOLMES, Deputy Warden; ZELENAK, Officer; BERNSTEIN, Officer; BOURNE, Officer, Defendants-Appellees.

Notice: [*1] NOT RECOMMENDED FOR FULL-TEXT PUBLICATION. SIXTH CIRCUIT RULE 206 LIMITS CITATION TO SPECIFIC SITUATIONS. PLEASE SEE RULE 206 BEFORE CITING IN A PROCEEDING IN A COURT IN THE SIXTH CIRCUIT. IF CITED, A COPY MUST BE SERVED ON OTHER PARTIES AND THE COURT. THIS NOTICE IS TO BE PROMINENTLY DISPLAYED IF THIS DECISION IS REPRODUCED.

Subsequent History: Reported in Table Case Format at: [1999 U.S. App. LEXIS 12682](#).

Certiorari Denied October 4, 1999, Reported at: [1999 U.S. LEXIS 5686](#).

Prior History: Eastern District of Michigan. 96-60360. Hackett. 10-29-97.

Disposition: Affirmed.

Core Terms

district court, grant summary judgment, individual defendant, prison

Case Summary

Procedural Posture

Plaintiff appealed a district court judgment from the Eastern District of Michigan, which dismissed, in part, his civil rights complaint filed under [42 U.S.C.S. § 1983](#), and granted summary judgment for defendant officer, in part.

Overview

Plaintiff filed a complaint against defendant department of corrections and six prison officials in which he alleged he was a paraplegic prisoner and was injured when his wheelchair tipped over as he was being transported back to prison after a medical appointment at an outside hospital. Plaintiff sought declaratory and injunctive relief and compensatory and punitive damages. The district court granted summary judgment for defendant officer and dismissed the complaint with respect to all other defendants. On appeal, plaintiff contended defendants violated state law and prison policy and conspired to cover their actions. Upon de novo review, however, the court agreed with the district court that plaintiff could not have shown defendants failed to take reasonable steps to abate a known and substantial risk of serious harm. Accordingly, the judgment was affirmed.

Outcome

Judgment, which dismissed, in part, plaintiff's civil rights complaint, and granted summary judgment for defendant officer, in part, was affirmed as proper based on the evidence.

Counsel: KENNETH A. COURTNEY, Plaintiff - Appellant, Pro se, Detroit, MI.

For M. HOLMES, ZELENAK, BERNSTEIN, BOURNE, Defendants - Appellees: John L. Thurber, Office of the Attorney General, Lansing, MI.

Judges: Before: NORRIS and SUHRHEINRICH, Circuit Judges; ECONOMUS, District Judge. *

Opinion

* The Honorable Peter C. Economus, United States District Judge for the Northern District of Ohio, sitting by designation.

ORDEREnd of Document

Kenneth A. Courtney appeals a district court judgment dismissing in part his civil rights complaint filed under [42 U.S.C. § 1983](#) and granting summary judgment for defendant Bourne in part. This case has been referred to a panel of the court pursuant to *Rule 34(j)(1), Rules of the Sixth Circuit*. Upon examination, this panel unanimously agrees that oral argument [*2] is not needed. *Fed. R. App. P. 34(a)*.

Courtney filed his complaint in the district court alleging that he is a paraplegic prisoner and was injured when his wheelchair tipped over as he was being transported back to prison after a medical appointment at an outside hospital. Plaintiff named as defendants the Michigan Department of Corrections and six Michigan prison officials in their individual and official capacities. Plaintiff sought declaratory and injunctive relief and compensatory and punitive damages. The district court dismissed the complaint as frivolous pursuant to [28 U.S.C. § 1915\(d\)](#) with respect to two of the named defendants and directed that the complaint be served on the remaining individual defendants. Thereafter, the district court granted plaintiff's motion to serve defendant Bourne, but dismissed the complaint with respect to the Michigan Department of Corrections. Next, the district court granted summary judgment for the remaining individual defendants except for defendant Bourne. Finally, the district court granted summary judgment for defendant Bourne as well. Plaintiff filed a timely notice of appeal.

On appeal, plaintiff contends that defendants violated state [*3] law and prison policy and conspired to cover their actions. Defendants respond that: (1) the Michigan Department of Corrections is immune; (2) other defendants had no personal involvement in the matters alleged; and (3) plaintiff did not state a claim upon which relief can be granted under the [Eighth Amendment](#). Upon de novo review, see [Brooks v. American Broad. Cos., 932 F.2d 495, 500 \(6th Cir. 1991\)](#), we affirm the district court's judgment for the reasons stated by the district court. Essentially, plaintiff cannot show that defendants failed to take reasonable steps to abate a known and substantial risk of serious harm. See [Farmer v. Brennan, 511 U.S. 825, 835-47, 128 L. Ed. 2d 811, 114 S. Ct. 1970 \(1994\)](#).

Accordingly, the district court's judgment is affirmed. *Rule 34(j)(2)(C), Rules of the Sixth Circuit*.