

18-2888

Morgan v. Dzurenda

1 UNITED STATES COURT OF APPEALS
2 FOR THE SECOND CIRCUIT

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4
5 August Term, 2019
6

7 (Argued: September 25, 2019

Decided: April 15, 2020)

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9 Docket No. 18-2888
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13 LLOYD GEORGE MORGAN, JR.,
14

15 *Appellant,*
16

17 v.
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19 JAMES E. DZURENDA, COMMISSIONER, individual and official capacity,
20 SCOTT SEMPLE, DEPUTY COMMISSIONER, individual and official capacity,
21 ANGEL QUIROS, DISTRICT ADMINISTRATOR- NORTH, individual and
22 official capacity, KARL LEWIS, DIRECTOR OF OFFENDER CLASSIFICATION,
23 individual and official capacity, CHRISTINE WHIDDEN, WARDEN, individual
24 and official capacity, CAROL CHAPDELAINE, CORRECTIONAL OFFICER,
25 individual and official capacity, EDWARD MALDONADO, WARDEN,
26 individual and official capacity, GARY WRIGHT, DEPUTY WARDEN OF
27 OPERATION, individual and official capacity, SANDRA BARONE, DEPUTY
28 WARDEN OF PROGRAMS AND TREATMENT, individual and official capacity,
29 MCCORMICK, ADMINISTRATIVE CAPTAIN, individual and official capacity,
30 K. GODDING, UNIT MANAGER CAPTAIN, individual and official capacity,
31 CAPTAIN MANNING, UNIT MANAGER CAPTAIN, individual and official
32 capacity, JEANOTT, 1ST SHIFT COMMANDER CAPTAIN, LIZON,
33 LIEUTENANT, individual and official capacity, MALDONADO,

1 CORRECTIONAL OFFICER, individual and official capacity, LINDSEY,
2 CORRECTIONAL OFFICER, individual and official capacity, CLAYTON,
3 CORRECTIONAL OFFICER, individual and official capacity, TORRES,
4 CORRECTIONAL OFFICER, individual and official capacity, GONZALEZ,
5 CORRECTIONAL OFFICER, individual and official capacity, LEIPER,
6 CORRECTIONAL OFFICER, individual and official capacity, ULM,
7 CORRECTIONAL OFFICER, individual and official capacity,
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9 *Defendants-Appellees.*
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12 Before: CALABRESI, POOLER, and PARK, *Circuit Judges.*
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14 Lloyd George Morgan, Jr. appeals from the August 28, 2018 judgment of
15 the United States District Court for the District of Connecticut (Bolden, J.)
16 granting summary judgment to defendants in his lawsuit brought pursuant to 42
17 U.S.C. § 1983. Morgan's lawsuit alleged that his Eighth Amendment rights were
18 violated when he was violently assaulted by a fellow inmate while imprisoned,
19 and that defendants acted with deliberate indifference to his safety. *Morgan v.*
20 *Dzurenda*, No. 3:14-cv-00966, 2018 WL 4096630 (D. Conn. Aug. 28, 2018). We
21 agree with Morgan that he adduced sufficient evidence to raise a question of
22 material fact on his Eighth Amendment claims against Captain Kyle Godding
23 and Warden Carol Chapdelaine. We affirm the district court's grant of summary
24 judgment to the remaining defendants.

1 Affirmed in part, vacated and remanded in part.

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3 SHERWIN M. YODER, Carmody Torrance Sandak &
4 Hennessey LLP (James K. Robertson, Jr., *on the brief*),
5 New Haven, CT *for Plaintiff-Appellant*.

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7 ZENOBIA GRAHAM-DAYS, Assistant Attorney
8 General, *for William Tong, Attorney General, Hartford,*
9 *CT, for Defendants-Appellees.*

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12 POOLER, *Circuit Judge*:

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14 the United States District Court for the District of Connecticut (Bolden, J.)
15 granting summary judgment to defendants in his lawsuit brought pursuant to 42
16 U.S.C. § 1983. Morgan's lawsuit alleged that his Eighth Amendment rights were
17 violated when he was violently assaulted by a fellow inmate while imprisoned,
18 and that defendants acted with deliberate indifference to his safety. *Morgan v.*
19 *Dzurenda*, No. 3:14-cv-00966, 2018 WL 4096630 (D. Conn. Aug. 28, 2018). We
20 agree with Morgan that he adduced sufficient evidence to raise a question of
21 material fact on his Eighth Amendment claims against Captain Kyle Godding

1 and Warden Carol Chapdelaine. We affirm the district court's grant of summary
2 judgment to the remaining defendants.

3 BACKGROUND

4 Prior to his release from custody in December 2017, Morgan served time in
5 a variety of facilities in Connecticut. As relevant to this lawsuit, in July 2013
6 Morgan was transferred from the Garner Correctional Institution to the Carl
7 Robinson Correctional Institution ("CRCI"). While at CRCI, Morgan cooperated
8 with the correctional officers about various gang activity at the prison,
9 developing a reputation as a snitch. In November 2013, Morgan was transferred
10 to the Osborn Correctional Institution.

11 Morgan averred that "[i]mmediately upon arrival at Osborn, [he] was
12 threatened and harassed by inmates for being a 'snitch' and a homosexual," and
13 that he "feared for [his] safety." App'x at 264 ¶ 18. On November 14, 2013,
14 Morgan submitted an Inmate Request Form to defendant Godding, stating (1)
15 Morgan had worked with prison intelligence officials while imprisoned at CRCI;
16 (2) an Osborn inmate, Gabriel Rodriguez, had called Morgan a snitch and
17 threatened to "beat [Morgan] real badly and snap [his] neck for being a 'snitch'
18 and a 'homo;'" (3) Rodriguez was a member of the Los Solidos gang; and (4)

1 Morgan feared Rodriguez would harm him. App'x at 265 ¶ 19. Morgan also
2 averred that he verbally conveyed his worries about his safety to Godding on at
3 least three occasions. He stated that Godding did not take his concerns seriously,
4 telling Morgan to "stop being a snitch," "learn to fight like a man," and that
5 Morgan should "stop being Lt. Columbo." App'x at 265 ¶¶ 21-23.

6 On December 2, 2013, Morgan submitted an Inmate Request Form to
7 Chapdelaine, Osborn's warden. Morgan asked Chapdelaine for help, explaining
8 that he had "been constantly threatened with harm" by Rodriguez, that
9 Rodriguez called him "a snitch a CI and a homo," and that Morgan had asked
10 Godding for help, to no avail. App'x at 283. Morgan wrote that he was
11 "extremely afraid" Rodriguez would make good on his threats. App'x at 283.
12 Morgan averred that between December 2, 2013 and January 5, 2014, he repeated
13 his concerns to Chapdelaine verbally when she toured his cell block. During that
14 conversation, Chapdelaine acknowledged receiving Morgan's Inmate Request
15 Form.

16 On the evening of January 5, 2014, corrections officers Maritza Maldonado
17 and Jeremy Lindsay were working the second shift in Morgan's cell block.
18 Shortly after they came on shift, Morgan told both that he "had been threatened

1 by Inmate Rodriguez," "feared for [his] safety" and "was specifically concerned
2 about recreation time." App'x at 266 ¶ 29. "Hours later," Morgan was let out of
3 his cell for recreation, and went to the shower around 8:15 p.m. App'x at 266 ¶¶
4 30, 31. Rodriguez was there, with another person, and began threatening
5 Morgan, calling him a "snitch." App'x at 267 ¶ 32. Rodriguez threatened to steal
6 Morgan's property, and then beat Morgan, choking him and repeatedly striking
7 him in the head and face. Morgan called out "C.O.! C.O.!" hoping to get the
8 attention of a corrections officer. App'x at 267 ¶ 35. No one came to Morgan's
9 aid, and Rodriguez choked him so hard that Morgan could no longer scream.

10 Afterward, Morgan reported the assault to Maldonado, telling her that he
11 "had been beaten by the very person [he had] warned her would hurt [him],
12 namely, Inmate Rodriguez." App'x at 267 ¶ 37. Morgan averred that Maldonado
13 was dismissive of his claims and failed to call in an emergency code or lock
14 down the unit. An investigation by the prison resulted in Rodriguez being
15 disciplined for assaulting Morgan.

16 Morgan brought this action pro se against 21 employees of the Connecticut
17 Department of Correction, alleging numerous claims under 42 U.S.C. § 1983 and
18 the Americans with Disabilities Act, as well as a variety of state law claims. As

1 the litigation progressed, various claims were dismissed. As relevant here, what
2 remained were only the Eighth Amendment claims of deliberate indifference
3 against defendants Chapdelaine, Godding, Maldonado, and Lindsay, along with
4 state law claims of intentional infliction of emotional distress against the
5 remaining defendants. At that point, the district court appointed counsel to
6 represent Morgan, and defendants moved for summary judgment. The district
7 court granted the motion with respect to the federal claims, and dismissed the
8 state law claims without prejudice, declining to exercise supplemental
9 jurisdiction. *Morgan v. Dzurenda*, No. 3:14-cv-00966, 2018 WL 4096630 (D. Conn.
10 Aug. 28, 2018). This appeal followed.

13 DISCUSSION

14 “We review a district court’s grant of summary judgment *de novo*.”
15 *Brandon v. Kinter*, 938 F.3d 21, 31 (2d Cir. 2019). “Summary judgment may be
16 granted only if the court concludes that the case presents no genuine issue as to
17 any material fact and that the moving party is entitled to a judgment as a matter
18 of law.” *Id.* (internal quotation marks and citation omitted). “A genuine issue

1 exists—and summary judgment is therefore improper—where the evidence is
2 such that a reasonable jury could decide in the non-movant’s favor.” *Id.* (internal
3 quotation marks and citation omitted). “In reviewing the district court’s grant of
4 summary judgment, we must construe the facts in the light most favorable to the
5 non-moving party and must resolve all ambiguities and draw all reasonable
6 inferences against the movant.” *Id.* (internal quotation marks and citation
7 omitted).

8 The Eighth Amendment prohibits the infliction of “[c]ruel and unusual
9 punishments” on those convicted of crimes, which includes punishments that
10 “involve the unnecessary and wanton infliction of pain.” *Gregg v. Georgia*, 428
11 U.S. 153, 173, 178 (1976) (internal quotation marks and citations omitted). The
12 Eighth Amendment requires prison officials to “take reasonable measures to
13 guarantee the safety of the inmates.” *Farmer v. Brennan*, 511 U.S. 825, 832 (1994)
14 (internal quotation marks and citation omitted). That extends to “protect[ing]
15 prisoners from violence at the hands of other prisoners.” *Id.* at 833 (internal
16 quotation marks omitted); *see also Fischl v. Armitage*, 128 F.3d 50, 55 (2d Cir. 1997)
17 (“The Eighth Amendment . . . imposes on prison officials a duty . . . to protect

1 prisoners from violence at the hands of other prisoners.” (internal quotation
2 marks and citation omitted)).

3 Pursuant to *Farmer*, an inmate seeking to establish an Eighth Amendment
4 violation for failure to protect or deliberate indifference to safety must prove (1)
5 “that [the plaintiff] is incarcerated under conditions posing a substantial risk of
6 serious harm,” and (2) that the prison official had a “sufficiently culpable state of
7 mind,” which in “prison-conditions cases” is “one of deliberate indifference to
8 inmate health or safety.” *Id.* at 834 (internal quotation marks and citations
9 omitted).

10 The “deliberate indifference standard embodies both an objective and a
11 subjective prong.” *Hathaway v. Coughlin*, 37 F.3d 63, 66 (2d Cir. 1994). “First, the
12 alleged deprivation must be, in objective terms, sufficiently serious.” *Id.* (internal
13 quotation marks and citation omitted). “Second, the charged official must act
14 with a sufficiently culpable state of mind.” *Id.* “Deliberate indifference requires
15 more than negligence, but less than conduct undertaken for the very purpose of
16 causing harm.” *Id.* “[A] prison official does not act in a deliberately indifferent
17 manner unless that official knows of and disregards an excessive risk to inmate
18 health or safety; the official must both be aware of facts from which the inference

1 could be drawn that a substantial risk of serious harm exists, and he must also
2 draw the inference.” *Id.* (internal quotation marks and citation omitted). As
3 before the district court, defendants on appeal do not challenge whether Morgan
4 raised a question of material fact as to whether he was incarcerated “under
5 conditions posing a substantial risk of serious harm.” *See Morgan*, 2018 WL
6 4096630, at *8. Our analysis thus focuses on whether Morgan raised a question of
7 material fact as to whether the defendants acted with “deliberate indifference to
8 [Morgan’s] health or safety.” *Farmer*, 511 U.S. at 834 (internal quotation marks
9 and citation omitted).

10 The district court focused its analysis of Morgan’s claims against
11 Chapdelaine and Godding under the doctrine of supervisory liability. *See*
12 *Morgan*, 2018 WL 4096630, at *8-10. Generally, “[g]overnment officials may not be
13 held liable for the unconstitutional conduct of their subordinates under a theory
14 of *respondeat superior*.” *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009). We have
15 permitted plaintiffs suing under Section 1983, however, to establish the
16 “personal involvement” of a supervisory defendant in the alleged constitutional
17 deprivations of her subordinates. *Colon v. Coughlin*, 58 F.3d 865, 873 (2d Cir.
18 1995). Here, while Chapdelaine and Godding both held supervisory roles at

1 Osborn, Morgan seeks to hold them liable only for acts that they themselves
2 committed. *See Farmer*, 511 U.S. at 833 (noting that generally, “prison officials
3 have a duty to protect prisoners from violence at the hands of other prisoners”
4 (internal quotation marks, alterations, and citation omitted)). The crux of
5 Morgan’s allegations against Chapdelaine and Godding is that they violated the
6 Eighth Amendment by ignoring his pleas for help. Morgan nowhere suggests
7 that Chapdelaine, Godding, or any other defendant improperly allowed a
8 subordinate prison official to commit a constitutional violation. The doctrine of
9 supervisory liability is therefore not implicated.

10 We hold that the district court erred in dismissing Morgan’s claims against
11 Chapdelaine and Godding on the ground that neither was “on notice that . . .
12 Morgan faced an unreasonable risk to his safety.” *Morgan*, 2018 WL 4096630, at
13 * 8; *see also id.* at *10. The Inmate Request Forms Chapdelaine and Godding
14 acknowledged receiving were detailed and explicit regarding the threat Morgan
15 believed Rodriguez posed. In the Inmate Request Form sent to Godding, Morgan
16 explained that he recently cooperated with prison officials in providing
17 intelligence against gang members, that Rodriguez was involved with the gangs,
18 and that Rodriguez threatened to “beat [Morgan] real badly and snap[]

[Morgan's] neck" for being "a snitch." App'x at 281. Morgan also stated that Rodriguez "has constantly been hostile and threatening me. I fear for my safety." App'x at 281. Similarly, in the Inmate Request Form he submitted to Chapdelaine, Morgan stated that he "[has] been constantly threaten[ed] with bodily harm by" Rodriguez, and he "fear[s] for [his] safety." App'x at 283. Morgan reported that Rodriguez has "called [him] a snitch a CI and a Homo; I am extremely afraid he will carry out his threats if he is not moved." App'x at 283. Morgan also told Chapdelaine that he had reported the threats to Godding to no avail. Finally, Morgan orally conveyed his concerns regarding the threat Rodriguez posed to his safety to both Chapdelaine and Godding. In response, Godding made dismissive remarks to Morgan, which Morgan relayed to Chapdelaine in his Inmate Request Form. Chapdelaine ignored these requests for help. These actions reflect Chapdelaine and Godding's subjective awareness of, and deliberate indifference to, Morgan's specific, repeated, and urgent expressions of fear for his safety. Taken together, we find that Morgan raised a question of material fact as to whether "a substantial risk of inmate attacks was longstanding, pervasive, well-documented, or expressly noted by prison officials in the past," such that a trier of fact could find that Chapdelaine and Godding

1 “had actual knowledge of the risk” posed by Rodriguez. *Farmer*, 511 U.S. at 842-
2 43 (internal quotation marks and citation omitted); *cf., e.g., Reed v. McBride*, 178
3 F.3d 849, 854 (7th Cir. 1999) (“[F]acts were made known to the defendants, and
4 the risk they presented were sufficiently obvious that a jury could conclude that
5 the defendants drew the requisite inferences.”).

6 We reach a different conclusion with regard to officers Lindsay and
7 Maldonado. Morgan’s warnings to those officers lacked detail and failed to
8 notify them of “a substantial risk of serious harm.” *Farmer*, 511 U.S. at 834.
9 Accordingly, we affirm the grant of summary judgment to Lindsay and
10 Maldonado.

11 CONCLUSION

12 We vacate the grant of summary judgment to defendants Chapdelaine and
13 Godding on Morgan’s Eighth Amendment claims, affirm the district court’s
14 disposition as to all other defendants, and remand for further proceedings
15 consistent with this opinion.