

# United States Court of Appeals For the First Circuit

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No. 19-2018

EMORY SNELL,

Plaintiff, Appellant,

v.

THOMAS NEVILLE, PATRICIA RUZE, MASSACHUSETTS DEPARTMENT OF  
CORRECTION, CAROL MICI, STEPHANIE COLLINS, LOIS RUSSO, DALE  
BISSENETTE, DOUGLAS DEMOURA, JEFFREY J. QUICK, MONSERRATE  
QUINONES, and JOANN LYNDY,

Defendants, Appellees,

THOMAS DICKHAUT, Superintendent, THOMAS A. GROBLEWSKI, GREG A.  
POLADIAN, THERESA SMITH, ROBERT CONLEY, CLESELY M. GARCIA,  
PHILIP H. KONG, KEVIN ANAHORY, GENE CHASSION, JOHN A. BELAIR,  
THOMAS DEMOURA, JANE ROE, and JOHN DOE,

Defendants.

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Denise Casper, U.S. District Judge]

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Before

Thompson and Kayatta, Circuit Judges.\*

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\*Judge Torruella heard oral argument in this matter and participated in the *semble*, but he did not participate in the issuance of the panel's opinion. The remaining two panelists therefore issued the opinion pursuant to 28 U.S.C. § 46(d).

Lucas I. Silva, with whom Sommer Wiss, Andrew C. Yost, and Foley Lardner LLP were on brief, for appellant.

Mary Eiro-Bartevyan, Department of Correction Legal Division, Nancy Ankers White, Special Assistant Attorney General for appellees Thomas Neville, Massachusetts Department of Correction, Carol Mici, Stephanie Collins, Lois Russo, Dale Bissonnette, Douglas Demoura, Jeffrey Quick, Monserrate Quinones, and Joann Lynds.

George J. Puddister IV, with whom Victor J. Koufman and Koufam & Frederick, LLP were on brief, for appellee Patricia Ruze.

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May 25, 2021

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**THOMPSON, Circuit Judge.** Americans are reputedly a litigious bunch, and Emory Snell, an inmate at MCI-Concord in Massachusetts, has greatly aided in keeping the federal and state judiciaries busy. In this lawsuit, one of at least 170 he has filed challenging his conviction and his prison conditions, Snell's legal focus is on a first-floor Lexis Nexis terminal and typewriter (collectively "the first-floor Terminal" or "the Terminal") where he spent two plus years conducting legal research and cranking out legal documents.<sup>1</sup> Regrettably for Snell, prison officials nixed his habit upon learning he was using the resources without a diagnosed disability preventing him from climbing stairs to the second-floor law library. Not appreciating this purported lack of accommodation, Snell sued various prison officials as well as the Massachusetts Department of Correction (collectively, "DOC defendants"), and his prison physician, Dr. Patricia Ruze, for injunctive and declaratory relief and damages. Finding no merit to Snell's complaint, the district court granted summary judgment to all defendants. See Snell v. Mici, No. 16-cv-11643-DJC, 2019

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<sup>1</sup> A Lexis Nexis terminal is a computer that allows users to access only the Lexis Nexis legal research services without getting into other parts of the internet.

WL 4303264 (D. Mass. Sept. 11, 2019). Snell appeals part of that order alleging several claims of error.<sup>2</sup> Espying none, we affirm.<sup>3</sup>

### **Background**

In order to understand the legal issues addressed in our decision, we find it necessary to provide the reader with a detailed background of events which triggered this appeal. Therefore, we ask the reader's patience as we soldier through the facts.

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<sup>2</sup> Because Snell does not challenge the district court's grant of summary judgment for his other claims raised below, he has waived his right to appeal those counts, and we will not consider them. See Bekele v. Lyft, Inc., 918 F.3d 181, 186-87 (1st Cir. 2019).

<sup>3</sup> Defendants raise a number of arguments about why we should affirm summary judgment, including qualified immunity, Snell's failure to plead sufficient facts proving the personal involvement of all defendants, and Snell's failure to exhaust his administrative remedies. Because we affirm summary judgment on other substantive grounds, we need not reach those arguments. See F.D.I.C. v. LeBlanc, 85 F.3d 815, 820 (1st Cir. 1996) (noting that we may affirm summary judgment on any independently sufficient ground); see also Mihos v. Swift, 358 F.3d 91, 98-99 (1st Cir. 2004) (assuming qualified immunity is inapplicable does not equate to a victory for the plaintiff). Also, because we affirm summary judgment on all counts, we need not differentiate between the defendants' individual and official capacities insofar as those distinctions would otherwise matter for the analyses that follow. See, e.g., Parker v. Landry, 935 F.3d 9, 14 & n.3 (1st Cir. 2019) (claims pursuant to 42 U.S.C. § 1983 cannot apply to state entities or state employees in their official capacities); Bartolomeo v. Plymouth Cnty. House of Corr., 229 F.3d 1133, \*1 (1st Cir. 2000) (per curiam) (assuming without deciding that individuals may be subject to personal liability under Title II of the ADA and Section 504 of the Rehabilitation Act).

When a party appeals from a district court's grant of summary judgment, we describe the facts in the light most favorable to the non-moving party (here, Snell), so far, at least, as a reasonable review of the record obliges. See Nunes v. Mass. Dept. of Corr., 766 F.3d 136, 138 (1st Cir. 2014); see also Santiago-Ramos v. Autoridad de Energía Eléctrica de Puerto Rico, AEE, 834 F.3d 103, 105 (1st Cir. 2016) (quoting Chaloult v. Interstate Brands Corp., 540 F.3d 64, 66 (1st Cir. 2008) ("drawing all inferences in" the non-movant's favor)).

#### **The Accommodation Process and Two-Tiered Library at MCI-Concord**

After a jury convicted Snell of the first-degree murder of his wife in 1995, he began serving a life without parole sentence in the Massachusetts prison system, eventually landing at the facility known as MCI-Concord in 2010. See Commonwealth v. Snell, 705 N.E.2d 236, 238-39 (Mass. 1999). Snell arrived there in less than stellar health. Amongst other ailments, he suffered knee and back pain, and had degenerative joint disease which limited his body's range of motion.<sup>4</sup> A walking cane facilitated his mobility. In consequence, upon his confinement, he began to seek ways to better manage and endure his terms of incarceration. Therefore, before delving into the details of Snell's particular

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<sup>4</sup> Degenerative joint disease, also known as osteoarthritis, is the deterioration of the skeleton's cartilage or bony structures.

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