

20-2415
Walker v. Schult

1 UNITED STATES COURT OF APPEALS
2 FOR THE SECOND CIRCUIT

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4 August Term, 2020

5 (Argued: May 25, 2021

Decided: August 16, 2022)

6 Docket No. 20-2415

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8 ELLIS WALKER,

9 *Plaintiff-Appellee,*

10 - v. -

11 DEBORAH G. SCHULT, Warden, FCI Ray Brook, JACKIE
12 SEPANEK, Counselor, FCI Ray Brook,

13 *Defendants-Appellants,*

14 RUSSELL PERDUE, Warden, FCI Ray Brook, DAVID SALAMY,
15 Unit Manager, FCI Ray Brook, DAVID PORTER, Associate
16 Warden, FCI Ray Brook, ANNE MARY CARTER, Associate
17 Warden, FCI Ray Brook, STEVEN WAGNER, Associate Warden,

1 FCI Ray Brook, J.L. NORWOOD, Regional Director, HARLEY
2 LAPPIN, Director, Bureau of Prisons,

3 *Defendants.**
4 _____

5 Before: KEARSE, LYNCH, and CHIN, *Circuit Judges.*

6 Appeal by defendants Deborah G. Schult and Jackii Sepanek,
7 federal prison officials, from a judgment entered in the United States
8 District Court for the Northern District of New York following a jury trial
9 before Daniel J. Stewart, *Magistrate Judge*, awarding former prisoner Ellis
10 Walker \$20,000 for mental and emotional injury in this action requesting,
11 *inter alia*, damages pursuant to *Bivens v. Six Unknown Named Agents of*
12 *Federal Bureau of Narcotics*, 403 U.S. 388 (1971), for his imprisonment in
13 overcrowded conditions that posed a substantial risk of serious damage
14 to his health or safety, to which appellants were deliberately indifferent,
15 in violation of his rights under the Eighth Amendment to the Constitution.
16 On appeal, appellants contend that the district court erred in denying their
17 motions for judgment as a matter of law on the ground (a) that a *Bivens*

* The Clerk of Court is instructed to amend the official caption to conform with the above.

1 damages remedy is not available for such claims, or (b) that even if such
2 a remedy is available, appellants are entitled to qualified immunity.
3 Without addressing the *Bivens* question, we conclude that appellants are
4 entitled to judgment as a matter of law on the grounds (a) that in light
5 of the jury's findings that Walker had not proven any physical injury, the
6 Prison Litigation Reform Act precluded the award of damages for mental
7 or emotional injury, *see* 42 U.S.C. § 1997e(e); (b) that whether or not the
8 facts found by the jury sufficed to establish a violation of Walker's Eighth
9 Amendment rights, any award of nominal damages was precluded by
10 appellants' entitlement to qualified immunity; and (c) that as Walker had
11 been released from prison prior to judgment, his claims for injunctive
12 relief were moot.

13 Judgment against appellants reversed; remanded for dismissal
14 of the complaint.

15 MEGAN BEHRMAN, New York, New York (Blake
16 Denton, William O. Reckler, Latham &
17 Watkins, New York, New York, on the brief),
18 *for Plaintiff-Appellee.*

19 LOWELL V. STURGILL JR., Civil Division, United
20 States Department of Justice, Washington, DC

1 (Jeffrey Bossert Clark, Acting Assistant
2 Attorney General, Brian M. Boynton, Acting
3 Assistant Attorney General, United States
4 Department of Justice, Washington, DC;
5 Antoinette T. Bacon, Acting United States
6 Attorney for the Northern District of New
7 York, Albany, New York; Barbara L. Herwig,
8 Civil Division, United States Department of
9 Justice, Washington, DC, on the brief), *for*
10 *Defendants-Appellants*.

11 Samuel Weiss, Washington, DC (for Amicus Curiae
12 Rights Behind Bars), David M. Shapiro,
13 Chicago, Illinois (for Amicus Curiae Roderick
14 & Solange MacArthur Justice Center), *filed a*
15 *brief in support of Plaintiff-Appellee*.

16 KEARSE, *Circuit Judge*:

17 Defendants Deborah G. Schult and Jackii Sepanek
18 ("Defendants"), federal prison officials, appeal from a judgment entered in
19 the United States District Court for the Northern District of New York
20 following a jury trial before Daniel J. Stewart, *Magistrate Judge*, awarding
21 former prisoner Ellis Walker \$20,000 for mental and emotional injury in
22 this action requesting, *inter alia*, damages pursuant to *Bivens v. Six*
23 *Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971),

1 for his imprisonment in overcrowded conditions that posed a substantial
2 risk of serious damage to his health or safety, to which Defendants were
3 deliberately indifferent, in violation of his rights under the Eighth
4 Amendment to the Constitution. On appeal, Defendants contend that the
5 district court erred in denying their motions for judgment as a matter of
6 law on the ground (a) that a *Bivens* damages remedy is not available for
7 such claims, or (b) that even if such a remedy is available, Defendants are
8 entitled to qualified immunity. Without regard to the *Bivens* question, we
9 conclude for the reasons discussed below that Defendants are entitled to
10 judgment as a matter of law on the grounds (a) that the Prison Litigation
11 Reform Act ("PLRA") precluded the award of damages to Walker for
12 mental or emotional injury because the jury found he had not proven that
13 he suffered any physical injury, *see* 42 U.S.C. § 1997e(e); (b) that if a
14 constitutional violation by these Defendants was proven, their entitlement
15 to qualified immunity foreclosed an award of nominal damages; and
16 (c) that as Walker had been released from prison prior to judgment, his
17 claims for injunctive relief were moot.

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