FILED
United States Court of Appeals
Tenth Circuit

August 16, 2022

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

HYRUM JAMES GEDDES,

Plaintiff - Appellant,

v.

WEBER COUNTY; WAYNE MOSS; ROBERT SHANER; KARLEE DRAKE; JAMIE TOONE,

Defendants - Appellees.

No. 20-4083
(D.C. No. 1:18-CV-00136-HCN)
(D. Utah)

ORDER AND JUDGMENT*

Before **HOLMES**, **BACHARACH**, and **CARSON**, Circuit Judges.

Mr. Hyrum Geddes sued Weber County and several officers in the Weber County Sheriff's Department for an excessive-force incident that occurred while he was detained at the Weber County Correctional Facility but before a probable cause hearing. Mr. Geddes brought his claim pursuant to 42 U.S.C. § 1983 and alleged the officers had violated his Fourteenth Amendment rights. The question before us is not whether the officers' actions indeed constituted excessive force. It is instead whether Mr. Geddes can bring an excessive-force claim—as an arrestee—under the

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* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Fourteenth Amendment. We conclude that he cannot. And we, therefore, agree with the district court's grant of summary judgment and conclusion that Mr. Geddes did not have "a cognizable claim under the Fourteenth Amendment" because the alleged excessive force did not occur "after a determination of probable cause and before conviction." *Geddes v. Weber Cnty.*, No. 1:18-cv-00136, 2020 WL 4437405, at *2 (D. Utah Aug. 3, 2020) (unpublished). Only the Fourth Amendment supplied a valid legal basis for Mr. Geddes's § 1983 claim, and yet, as we will discuss below, Mr. Geddes stubbornly refused to concede this fact.

We have jurisdiction under 28 U.S.C. § 1291. Reviewing the district court's grant of summary judgment de novo and for the reasons that follow, we affirm.

I

A Utah Highway Patrol Trooper pulled over Mr. Geddes for speeding in July 2017. Smelling alcohol, and noticing that Mr. Geddes slurred his speech, the trooper searched the vehicle. The trooper found unopened cans of beer and two rifles. The trooper arrested Mr. Geddes for speeding, driving under the influence, and carrying a dangerous weapon while under the influence of alcohol. The trooper then took Mr. Geddes to the Weber County Correctional Facility.

When he arrived at the facility, Mr. Geddes was searched and placed in a holding cell. In his operative complaint,[1] Mr. Geddes alleged that officers demanded

[1] The operative complaint is Mr. Geddes's amended complaint, filed on February 11, 2019. For simplicity's sake, we refer to the amended complaint herein simply as Mr. Geddes's "complaint"; as relevant to the matters we address and resolve here, there is no material difference between the two complaints.

that he remove his boots and then "rushed him, grabbed him, and violently attacked [him], . . . slamm[ing] his head into [a] brick wall and concrete floor with substantial, potentially deadly force." Aplt.'s App. at 35 (Am. Compl., filed Feb. 11, 2019). The officers then forcibly removed Mr. Geddes's boots. An incident report regarding the officers' use of force shows that it occurred soon after 4:00 p.m. A magistrate judge made a probable cause determination shortly after 5:30 p.m.

As a result of the officers' actions in removing his boots, Mr. Geddes claimed that he later suffered "blurry vision, cognitive difficulties, and substantial pain to the back and side of his head." *Id.* at 39. Mr. Geddes eventually filed a § 1983 action against Weber County and four officers in the Weber County Sheriff's Department. In his complaint, Mr. Geddes alleged that the officers "employed deadly force" against him in violation of the Fourteenth Amendment. *Id.* at 42. He further alleged that Weber County "engaged in deliberate indifference and/or reckless disregard of the deprivation of [his] rights under the Fourteenth Amendment." *Id.* at 44.

Defendants filed a motion for summary judgment. They argued that Mr. Geddes's complaint did not "state a cognizable cause of action" because it invoked the Fourteenth Amendment "as the sole basis for the alleged legal violation." *Id.* at 55, 57–58 (Defs.' Mot. for Summ. J., filed Oct. 18, 2019). Defendants insisted that because Mr. Geddes was an "'arrestee' who was detained without a warrant and prior to a judicial probable cause determination," the only valid basis for his

excessive-force claim was the Fourth Amendment, not the Fourteenth Amendment. *Id.* at 58. Defendants also argued that if Mr. Geddes had properly pleaded his claim under the Fourth Amendment they still would be entitled to qualified immunity. *See Id.* at 294–97 (Defs.' Reply Mem. in Supp. of Mot. for Summ. J., filed Nov. 15, 2019).

In response, Mr. Geddes said that he could bring his claim "only pursuant to the Fourteenth Amendment, because that Amendment incorporates the Fourth Amendment's protections against the states and their political subdivisions." *Id.* at 114 n.2 (Pl.'s Mem. in Opp.'n to Defs.' Mot. for Summ. J., filed Nov. 1, 2019). Mr. Geddes made two additional related arguments. First, he stated that no matter which amendment he cited in his complaint, Defendants were "put on notice that [he] was pursuing a claim under Section 1983 for use of excessive force," because "the Amended Complaint repeatedly alleges that the Individual Defendants violated Mr. Geddes'[s] rights when they used force that was 'objectively unreasonable' in light of the circumstances presented. That is the Fourth Amendment standard applicable to excessive force claims." *Id.* (quoting *id.* at 31, 37, 38).

Second, he insisted that because "there is really no practical difference between application of the standards applicable under the Fourth and Fourteenth Amendment to a claim of use of excessive force," any error in pleading his claim as a Fourteenth Amendment violation was immaterial. *Id.* at 143 n.6; *see also id.* at 138–39 n.5 ("[O]ne could make an [argument] that there was [a] continuing seizure and apply the Fourth Amendment, as Defendants say we should do; or, alternatively, one

could also argue that the Fourteenth Amendment should apply because Mr. Geddes had already been seized. In reality, . . . in light of the facts presented here, there is no practical difference in the outcome in application of the two standards." (citation omitted)). Finally, Mr. Geddes argued at length that Defendants were not entitled to qualified immunity.

The district court granted Defendants' motion for summary judgment. It found that Mr. Geddes "d[id] not have a cognizable claim under the Fourteenth Amendment" because the alleged excessive force occurred before a probable cause determination.[2] *Geddes*, 2020 WL 4437405, at *2. The court also rejected Mr. Geddes's argument that he pleaded a valid basis for his claim because the Fourteenth Amendment incorporates the Fourth Amendment against state and local officials. According to the court, "[i]t would follow from Mr. Geddes's argument that merely invoking the Fourteenth Amendment would suffice as notice for any number of constitutional claims—from free exercise or free speech claims to Second Amendment or takings claims, to claims based on any of the various rights relating to

[2] The district court also disagreed with Mr. Geddes's argument that at the time of the incident he was a pretrial detainee. *Geddes*, 2020 WL 4437405, at *3 n.3. Although Mr. Geddes argued he "'had already been seized . . . based on the Trooper's finding of probable cause' and that the subsequent judicial hearing was not an 'actual probable cause hearing [but] merely a judicial stamp of approval on the Trooper's finding of probable cause for the arrest and detention,'" the district court explained, "Mr. Geddes offers no authority in support of this novel theory, and the court is aware of none." *Id.* (alteration and omission in original) (quoting Aplt.'s App. at 138–39 n.5).

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