09-4524-pr
Mitchell v. Igoe

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to a summary order filed on or after January 1, 2007, is permitted and is governed by Federal Rule of Appellate Procedure 32.1 and this Court's Local Rule 32.1.1. When citing a summary order in a document filed with this Court, a party must cite either the Federal Appendix or an electronic database (with the notation "summary order"). A party citing a summary order must serve a copy of it on any party not represented by counsel.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 25th day of January, two thousand eleven.

PRESENT:

JOSÉ A. CABRANES,
REENA RAGGI,
Circuit Judges,
RICHARD K. EATON,
Judge.*

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VARREL E. MITCHELL,

Plaintiff-Appellant,

v. No. 09-4524-pr

VINCENT IGOE, Albany County Sheriff's Deputy, JOHN DOE, Albany County Sheriff's Deputy, GARY H. FILION, former Superintendent, Coxsackie Correctional Facility, KIM GERBER, School Principal, Coxsackie Correctional Facility, A. GREEN, Inmate Record Coordinator, Coxsackie Correctional Facility, TODD WILHELM, Senior Corrections Counselor, Coxsackie Correctional Facility, NEAL CRYSTAL, Corrections Counselor, Coxsackie Correctional Facility, MS. RYAN, Corrections Counselor, Coxsackie Correctional

* The Honorable Richard K. Eaton, of the United States Court of International Trade, sitting by designation.

Facility, THOMAS DELSANTIS, Transitional Services Coordinator, Coxsackie Correctional Facility, REV. LEWIS, Protestant Chaplain, Coxsackie Correctional Facility, DANIEL GLIDDEN, Corrections Officer, Coxsackie Correctional Facility, MR. HANS, Corrections Officer, Coxsackie Correctional Facility, MR. JACONIS, Corrections Officer, Coxsackie Correctional Facility, MR. KANE, Corrections Officer, Coxsackie Correctional Facility, MR. MCINTYRE, Corrections Officer, Coxsackie Correctional Facility, MR. CONKLIN, Corrections Officer, Coxsackie Correctional Facility, and MS. FARGAR, Coxsackie Correctional Facility,

Defendants-Appellees,

THOMAS BRESLIN, Albany County Court Judge, ELIOT SPITZER, former New York State Attorney General, ANTHONY ANNUCCI, Deputy Commissioner and Chief Counsel of the New York State Department of Correctional Services, BRIAN MALONE, Inspector General of the New York State Department of Correctional Services, KENNETH MCLAUGHLIN, Director of Operations in the Office of the Inspector General for the New York State Department of Correctional Services, and DAVID SOARES, Albany County District Attorney,

Defendants.[**]

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Appeal from a September 25, 2009 judgment entered in the United States District Court for the Northern District of New York (Gary L. Sharpe, *Judge*, and David E. Peebles, *Magistrate Judge*).

UPON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the District Court be **AFFIRMED**.

Appellant Varrel E. Mitchell, *pro se* and incarcerated, appeals the judgment of the District Court granting the appellees' motions for summary judgment and dismissing his 42 U.S.C. § 1983 complaint, which alleged that the appellees violated his constitutional rights by unlawfully circulating information regarding his criminal conviction to inmates and employees at Coxsackie Correctional Facility, encouraging inmates to assault him based on this information, and interfering with his ability to perfect his criminal appeal. We assume the parties' familiarity with the underlying facts, the procedural history of the case, and the issues on appeal.

We review an order granting summary judgment *de novo* and ask whether the district court properly concluded that there were no genuine issues of material fact and that the moving party was entitled to judgment as a matter of law. *ReliaStar Life Ins. Co. v. Home Depot U.S.A., Inc.*, 570 F.3d 513, 517 (2d Cir. 2009). In determining whether there are genuine issues of material fact, we are "required to resolve all ambiguities and draw all permissible factual inferences in favor of the party against whom summary judgment is sought," *Terry v. Ashcroft*, 336 F.3d 128, 137 (2d Cir. 2003) (quotation marks omitted), but "conclusory statements or mere allegations [are] not sufficient to defeat a summary judgment motion." *Davis v. New York*, 316 F.3d 93, 100 (2d Cir. 2002).

Following review of the record, we conclude that the District Court properly granted the appellees' motions for summary judgment, and we thus affirm the District Court's judgment for substantially the same reasons as set forth in the Magistrate Judge's well-reasoned and thorough report and recommendation (which was adopted by the District Court). Mitchell's arguments challenging the District Court's judgment are without merit, as the record clearly reveals that Mitchell failed to produce any evidence to support his allegations that the appellees violated his constitutional rights.

For the foregoing reasons, the judgment of the District Court is hereby **AFFIRMED**.

FOR THE COURT,
Catherine O'Hagan Wolfe, Clerk of Court