



GOLDBERG SEGALLA^{LLP}

Government Liability and Civil Rights Newsletter

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ALERT

SUPREME COURT CLARIFIES EXCESSIVE FORCE STANDARD

In *Wilkins v. Gaddy*, 210 U.S. LEXIS 1036, the United States Supreme Court clarified the excessive force standard for prisoner cases. The decision was issued on February 22, 2010.

In *Hudson v. McMillian*, 503 U.S. 1, the United States Supreme Court held that the use of excessive physical force against a prisoner may constitute cruel and unusual punishment, even when the inmate does not suffer serious injury. In the *Wilkins* case, the District Court dismissed the prisoner's excessive force claim based entirely on its determination that his injuries were de minimis. The Supreme Court held that the District Court's approach was at odds with *Hudson's* direction to decide excessive force claims based on the nature of the force, rather than the extent of the injury.

In March 2008, the petitioner Jamey Wilkins, a North Carolina state prisoner, filed suit in the United State District Court for the Western District of North Carolina pursuant to 42 U.S.C. §1983. Wilkins alleged that on June 13, 2007, he was maliciously and sadistically assaulted without any provocation by a corrections officer. According to the complaint, the defendant corrections officer, apparently angered by Wilkins' request for a grievance form, snatched Wilkins off of the ground and slammed him into the concrete floor. Wilkins alleged that the defendant then proceeded to punch, kick, knee and choke Wilkins until another officer had to physically remove him from Wilkins. The District Court dismissed the claim holding that Wilkins' alleged injuries were de minimis and could not survive a motion to dismiss.

The United States Supreme Court held that it was the nature of the conduct, not the injury, that is the issue. The Court held that it is the force that ultimately counts. The Court held that an inmate that is beaten by guards does not lose his ability to pursue an excessive force claim merely because he has the good fortune to escape without serious injury.

If you have any questions regarding this recent holding, please contact Jonathan M. Bernstein, Esq. at jbernstein@goldbergsegalla.com.

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