

United States Court of Appeals,  
Eighth Circuit.

Jane DOE; John Roe, Plaintiffs-Appellants,

v.

Elijah WRIGHT, individually and in his official capacity as a Deputy in the Pulaski County Sheriff's Department; Carroll Gravett, individually and in his official capacity as Sheriff of Pulaski County, Defendants,

Boyd A. Williams, individually and in his official capacity as Chief of Police of the City of Helena, Arkansas, Police Department, Defendant-Appellee.

Boyd A. WILLIAMS, individually and in his official capacity as the Chief of Police of the City of Helena, Arkansas, Police Department, Third Party Defendant,

v.

Carroll GRAVETT, Third Party Plaintiff.

Jane DOE; John Roe, Plaintiffs,

v.

Elijah WRIGHT, individually and in his official capacity as a Deputy in the Pulaski County Sheriff's Department; Carroll Gravett, individually and in his official capacity as Sheriff of Pulaski County; Boyd A. Williams, individually and in his official capacity as Chief of Police of the City of Helena, Arkansas, Police Department, Defendants.

Boyd A. WILLIAMS, individually and in his official capacity as the Chief of Police of the City of Helena, Arkansas, Police Department, Third Party Defendant-Appellee,

v.

Carroll GRAVETT, Third Party Plaintiff-Appellant.

Jane DOE; John Roe, Plaintiffs-Appellees,

v.

Elijah WRIGHT, individually and in his official capacity as a Deputy in the Pulaski County Sheriff's Department; Carroll Gravett, individually and in his official capacity as Sheriff of Pulaski County, Defendants,

Boyd A. Williams, individually and in his official capacity as Chief of Police of the City of Helena, Arkansas, Police Department, Defendant-Appellant.

Boyd A. WILLIAMS, individually and in his official capacity as the Chief of Police of the City of Helena, Arkansas, Police Department, Third Party Defendant,

v.

Carroll GRAVETT, Third Party Plaintiff.

Nos. 95-2223, 95-2224 and 95-2228.

Submitted Jan. 8, 1996.

Decided April 29, 1996.

Rehearing and Suggestion for Rehearing En Banc Denied June 19, 1996.

Plaintiffs brought § 1983 action against sheriff, deputy, and chief of police department for which deputy had previously worked, and state tort action against chief, alleging that deputy had forced plaintiffs to undress and engage in various sex acts in his presence. Sheriff brought third-party complaint against chief for contribution. The United States District Court for the Eastern District of Arkansas, [Stephen Reasoner](#), J., dismissed § 1983 claim against chief, dismissed sheriff's contribution claim against chief, and denied chief's motion for summary judgment on state tort claim. Parties appealed. The Court of Appeals, [John B. Jones](#), Senior District Judge, sitting by designation, held that: (1) chief was not liable under § 1983, and (2) chief was not liable for tort of outrage under Arkansas law.

Affirmed in part, reversed in part, and remanded with directions.

[\[1\] KeyCite Notes](#)



- 🔑 [170B](#) Federal Courts
  - 🔑 [170BVIII](#) Courts of Appeals
    - 🔑 [170BVIII\(K\)](#) Scope, Standards, and Extent
      - 🔑 [170BVIII\(K\)1](#) In General
        - 🔑 [170Bk776](#) k. Trial De Novo. [Most Cited Cases](#)

Standard of review for an order granting summary judgment is de novo.

[\[2\] KeyCite Notes](#)



- 🔑 [78](#) Civil Rights
  - 🔑 [78I](#) Rights Protected and Discrimination Prohibited in General
    - 🔑 [78k1026](#) Rights Protected
      - 🔑 [78k1027](#) k. In General. [Most Cited Cases](#)  
(Formerly 78k192)

First inquiry in a § 1983 claim is to determine whether plaintiff has been deprived of a right secured by Constitution and laws of United States. [42 U.S.C.A. § 1983](#).

[\[3\] KeyCite Notes](#)



- 🔑 [78](#) Civil Rights
  - 🔑 [78I](#) Rights Protected and Discrimination Prohibited in General
    - 🔑 [78k1088](#) Police, Investigative, or Law Enforcement Activities
      - 🔑 [78k1088\(1\)](#) k. In General. [Most Cited Cases](#)  
(Formerly 78k132.1)

In [§ 1983](#) action based on allegations that deputy had forced plaintiffs to undress and engage in various sex acts in his presence, chief of police department for which deputy had previously worked was not liable for his failure to recommend decertification of deputy after deputy had offered to fix traffic tickets for three women in exchange for sex; incident that led to suit occurred 17 months after deputy left chief's police department, deputy was clearly not acting as an agent of chief when deputy committed alleged subsequent acts, and chief was not aware that plaintiffs faced any special danger as distinguished from public at large. [42 U.S.C.A. § 1983](#).

[\[4\] KeyCite Notes](#)



- 🔑 [78](#) Civil Rights
  - 🔑 [78I](#) Rights Protected and Discrimination Prohibited in General
    - 🔑 [78k1088](#) Police, Investigative, or Law Enforcement Activities
      - 🔑 [78k1088\(1\)](#) k. In General. [Most Cited Cases](#)  
(Formerly 78k132.1)

In [§ 1983](#) action based on allegations that deputy had forced plaintiffs to undress and engage in various sex acts in his presence, chief of police for whom deputy had previously worked was not liable, either individually or in his individual capacity, for

actions of his subordinates in recommending deputy for job at which he allegedly committed the acts; letters were too attenuated to state actionable claim. [42 U.S.C.A. § 1983](#).

[5] [KeyCite Notes](#) 

- 🔑 [92](#) Constitutional Law
  - 🔑 [92XII](#) Due Process of Law
    - 🔑 [92k254](#) Application to Governmental or Private Action
      - 🔑 [92k254\(4\)](#) k. Private Persons, Corporations, or Associations, Actions Of. [Most Cited Cases](#)

Due process clause does not require state to protect its citizens against deeds of private actors. [U.S.C.A. Const.Amend. 14](#).

[6] [KeyCite Notes](#) 

- 🔑 [92](#) Constitutional Law
  - 🔑 [92XII](#) Due Process of Law
    - 🔑 [92k253](#) Nature of Acts Prohibited in General
      - 🔑 [92k253\(1\)](#) k. In General. [Most Cited Cases](#)

Failure to protect an individual against private violence does not constitute a violation of due process clause. [U.S.C.A. Const.Amend. 14](#).

[7] [KeyCite Notes](#) 

- 🔑 [170B](#) Federal Courts
  - 🔑 [170BVIII](#) Courts of Appeals
    - 🔑 [170BVIII\(K\)](#) Scope, Standards, and Extent
      - 🔑 [170BVIII\(K\)1](#) In General
        - 🔑 [170Bk776](#) k. Trial De Novo. [Most Cited Cases](#)

District court's application of state law is subject to de novo review.

[8] [KeyCite Notes](#) 

- 🔑 [115](#) Damages
  - 🔑 [115III](#) Grounds and Subjects of Compensatory Damages
    - 🔑 [115III\(A\)](#) Direct or Remote, Contingent, or Prospective Consequences or Losses
      - 🔑 [115III\(A\)2](#) Mental Suffering and Emotional Distress
        - 🔑 [115k57.19](#) Intentional or Reckless Infliction of Emotional Distress; Outrage
          - 🔑 [115k57.21](#) k. Elements in General. [Most Cited Cases](#)  
(Formerly 115k50.10)

Four elements are necessary to establish Arkansas state tort claim of outrage: actor intended to inflict emotional distress or knew or should have known that emotional distress was the likely result of his conduct; conduct was extreme and outrageous, was beyond all possible bounds of decency, and was utterly intolerable in a civilized community; actions of defendant were the cause of plaintiff's distress; and emotional

distress sustained by plaintiff was so severe that no reasonable man could be expected to endure it.

[\[9\] KeyCite Notes](#) 

- ☞ [115](#) Damages
  - ☞ [115III](#) Grounds and Subjects of Compensatory Damages
    - ☞ [115III\(A\)](#) Direct or Remote, Contingent, or Prospective Consequences or Losses
      - ☞ [115III\(A\)2](#) Mental Suffering and Emotional Distress
        - ☞ [115k57.19](#) Intentional or Reckless Infliction of Emotional Distress; Outrage
          - ☞ [115k57.22](#) k. Nature of Conduct. [Most Cited Cases](#)  
(Formerly 115k50.10)

Under Arkansas law, for purposes of tort of outrage, even grossly negligent conduct cannot be characterized as atrocious or exceeding all possible bounds of decency.

[\[10\] KeyCite Notes](#) 

- ☞ [115](#) Damages
  - ☞ [115III](#) Grounds and Subjects of Compensatory Damages
    - ☞ [115III\(A\)](#) Direct or Remote, Contingent, or Prospective Consequences or Losses
      - ☞ [115III\(A\)2](#) Mental Suffering and Emotional Distress
        - ☞ [115k57.19](#) Intentional or Reckless Infliction of Emotional Distress; Outrage
          - ☞ [115k57.20](#) k. In General. [Most Cited Cases](#)  
(Formerly 115k50.10)

Arkansas courts take a narrow view of claims for outrage.

[\[11\] KeyCite Notes](#) 

- ☞ [115](#) Damages
  - ☞ [115III](#) Grounds and Subjects of Compensatory Damages
    - ☞ [115III\(A\)](#) Direct or Remote, Contingent, or Prospective Consequences or Losses
      - ☞ [115III\(A\)2](#) Mental Suffering and Emotional Distress
        - ☞ [115k57.50](#) Labor and Employment
          - ☞ [115k57.55](#) k. Sex and Gender. [Most Cited Cases](#)  
(Formerly 115k50.10)

In action based on allegations that deputy had forced plaintiffs to undress and engage in various sex acts in his presence, chief of police department for which deputy had previously worked could not have formed intent to commit tort of outrage under Arkansas law by failing to recommend that deputy be decertified as a police officer after deputy offered to fix traffic tickets for three women in exchange for sex; actions of deputy at his subsequent job were too tenuous to be imputed to former police chief.

[\[12\] KeyCite Notes](#) 

- ☞ [115](#) Damages
  - ☞ [115III](#) Grounds and Subjects of Compensatory Damages
    - ☞ [115III\(A\)](#) Direct or Remote, Contingent, or Prospective Consequences or Losses

- 🔑 [115III\(A\)2](#) Mental Suffering and Emotional Distress
- 🔑 [115k57.19](#) Intentional or Reckless Infliction of Emotional Distress; Outrage
- 🔑 [115k57.22](#) k. Nature of Conduct. [Most Cited Cases](#)  
(Formerly 115k50.10)

When considering action for tort of outrage under Arkansas law, to determine whether conduct was extreme and outrageous, court looks at conduct at issue, period of time over which conduct took place, relation between plaintiff and defendant, and defendant's knowledge that plaintiff is peculiarly susceptible to emotional distress by reason of some physical or mental peculiarity.

[\[13\] KeyCite Notes](#) 

- 🔑 [115](#) Damages
  - 🔑 [115III](#) Grounds and Subjects of Compensatory Damages
    - 🔑 [115III\(A\)](#) Direct or Remote, Contingent, or Prospective Consequences or Losses
    - 🔑 [115III\(A\)2](#) Mental Suffering and Emotional Distress
    - 🔑 [115k57.50](#) Labor and Employment
    - 🔑 [115k57.55](#) k. Sex and Gender. [Most Cited Cases](#)  
(Formerly 115k50.10)

In action for tort of outrage under Arkansas law that was based on allegations that deputy had forced plaintiffs to undress and engage in various sex acts in his presence, failure of chief of police department for which deputy had previously worked to recommend decertification and to inform subsequent employer of deputy's misconduct after deputy offered to fix traffic tickets for three women in exchange for sex was not extreme and outrageous; chief had absolutely no prior contact with either of the plaintiffs, plaintiffs were not in custody or care of chief, chief could not have known if plaintiffs were in any way susceptible to emotional distress, and deputy was not a clear and immediate danger when he left his former employment.

**\*267** Appeal from the United States District Court for the Eastern District of Arkansas; [Stephen Reasoner](#), Judge.  
[Christopher R. Heil](#), Little Rock, AR (argued), for appellants Roe and Doe.  
[David M. Fuqua](#), North Little Rock, AR (argued), for appellant Gravett.  
[Mark R. Hayes](#), North Little Rock, AR (argued), for appellee.

Before [RICHARD S. ARNOLD](#), Chief Judge, [BOWMAN](#), Circuit Judge, and JOHN B. JONES,<sup>FN\*</sup> Senior District Judge.

**FN\*** The HONORABLE JOHN B. JONES, Senior District Judge, United States District Court for the District of South Dakota, sitting by designation.

JOHN B. JONES, Senior District Judge.

In this interlocutory appeal, plaintiffs Jane Doe and John Roe appeal the dismissal of their [§ 1983](#) claim against defendant Boyd A. Williams (Williams). Third Party Plaintiff Carroll Gravett (Gravett) appeals the dismissal of his contribution claim against the Third Party Defendant Williams. We affirm.

Williams appeals the denial of his motion for summary judgment on the state law outrage claim. We reverse.

## I.

Plaintiffs allege that Defendant Elijah Wright (Wright), while on duty as a deputy with the Pulaski County Sheriff's Department on September 14, 1992, forced the plaintiffs to undress and engage in various sex acts in his presence. After the plaintiffs complained to the Pulaski County Sheriff's Department, Wright was terminated.

Prior to his employment in Pulaski County, Wright was employed by the Helena Police Department from August 1987 to April 12, 1991. While employed by the City of Helena, Wright offered to fix traffic tickets for three women in exchange for sex. When complaints were lodged, Williams, as Chief of the Helena Police Department, reprimanded Wright and placed him on a day shift to observe him. Wright did not engage in any similar conduct while employed in Helena.

When Wright resigned from the Helena Police Department, Williams filled out and filed with the Arkansas Commission on Law Enforcement Standards and Training a change in status report as required by Arkansas law. Williams did not recommend that Wright be decertified as a police officer and plaintiffs assert that Williams had a duty to do so.

Before Wright was hired by the Pulaski County Sheriff's Department, a background investigation was conducted. The investigation involved contacting the Helena Police Department. Assistant Chief Robinson, and Officers Rowan and Lovell submitted favorable recommendations for Deputy Wright. These recommendation letters were written in violation of department policy. Under the policy in force, only Williams was authorized to write a letter of recommendation. At the time the recommendations were given, Wright's file contained the complaints from the three women concerning the traffic tickets. The information regarding Wright's prior acts of sexual misconduct was not reported to the Pulaski County Sheriff's Department. Gravett has testified that he would not have employed Wright if he knew of his prior record.

## II.

The plaintiffs brought this action against Wright, Gravett and Williams, alleging [42 U.S.C. § 1983](#) claims. The plaintiffs also alleged a pendent state claim of outrage against Williams. Gravett brought a third-party complaint against Williams for indemnity or contribution in failing to report to Gravett Wright's sexual misconduct while employed by the Helena Police Department during the background check. Williams's motions to dismiss the complaints were treated *\*268* as motions for summary judgment pursuant to Rule 56.

## III.

The district court dismissed the [§ 1983](#) claim of the plaintiffs and the third-party complaint of Sheriff Gravett as to Williams. The district court, relying on [DeShaney v. Winnebago County Dept. of Social Servs.](#), 489 U.S. 189, 109 S.Ct. 998, 103 L.Ed.2d 249 (1989), concluded that the plaintiffs could not establish a constitutional duty on the part of Williams. The district court also concluded that the actions of Williams were too attenuated to establish an actionable [§ 1983](#) claim, relying on [Martinez v. California](#), 444 U.S. 277, 100 S.Ct. 553, 62 L.Ed.2d 481 (1980). The district court also held that Williams was entitled to qualified immunity.

The district court exercised supplemental jurisdiction pursuant to [28 U.S.C. § 1367](#) over the plaintiffs' state law claims and denied Williams' motion to dismiss the pendent state claim of outrage.

The district court certified the causation and qualified immunity questions concerning Williams to this Court and permission to appeal was granted.

On appeal, the plaintiffs contest the dismissal of their [§ 1983](#) action against Williams. Gravett contests the dismissal of his contribution claim against Williams. On cross-appeal, Williams challenges the ruling on the plaintiffs' state claim for outrage. The jurisdiction for this appeal is founded upon [28 U.S.C. § 1292](#).



[1] [The standard of review for an order granting summary judgment is de novo. \*Landreth v. First Nat'l Bank\*, 45 F.3d 267, 268 \(8th Cir.1995\).](#)

#### IV.



[2] [The first inquiry in a \[§ 1983\]\(#\) claim is to determine "\[W\]hether the plaintiff has been deprived of a right 'secured by the Constitution and laws' of the United States." \*Martinez\*, 444 U.S. at 284, 100 S.Ct. at 558, quoting, \*Baker v. McCollan\*, 443 U.S. 137, 140, 99 S.Ct. 2689, 2692, 61 L.Ed.2d 433 \(1979\).](#) This Court has held that the Due Process Clause imposes a duty on state actors to care for or protect citizens in two situations:

first, in custodial and other settings in which the state has limited the individuals' ability to care for themselves; and second, when the state affirmatively places a particular individual in a position of danger the individual would not have otherwise have faced.

[Gregory v. City of Rogers, Ark.](#), 974 F.2d 1006, 1010 (8th Cir.1992), cert. denied, 507 U.S. 913, 113 S.Ct. 1265, 122 L.Ed.2d 661 (1993). Under the second alternative, the plaintiffs contend they were placed in a situation they would not have been in except for the actions and policies of Williams.



[3] [We believe the reasoning of the \*Martinez\* case is on point under the facts presented in this case. In \*Martinez\*, the plaintiffs brought a \[§ 1983\]\(#\) action against the parole board after a parolee murdered a 15-year-old girl five months after his release. \*Martinez\*, 444 U.S. at 279, 100 S.Ct. at 556.](#) The complaint alleged that the parolee was a sex offender who had been committed to the state mental hospital with the recommendation that he not be paroled. *Id.* The parole board was fully informed about the parolee's history and the likelihood he would commit another crime. *Id.* In upholding a dismissal of the [§ 1983](#) claim, the Court determined that the action of the parolee five months after his release could not fairly be characterized as state action. *Id.* at 285, 100 S.Ct. at 559. The incident in Pulaski County occurred approximately seventeen months after Wright had left the Helena Police. In acting in Pulaski County, Wright was clearly not acting as an agent of Williams or the Helena Police Department. Williams was not aware that the plaintiffs in this case faced any special danger, as distinguished from the public at large, from Wright. We believe the action of Williams in failing to recommend decertification of Wright is too remote to create a [§ 1983](#) claim. The fact that decertification was not requested for Wright does not make Williams liable for every subsequent action Wright takes while on duty at a different law enforcement agency.

 \*269 [4] The actions of Williams' subordinates in recommending Wright to Pulaski County in violation of the Helena Police Department's policy does not create a cause of action against Williams either individually or in his official capacity. Like the failure to recommend decertification, we believe the recommendation letters are simply too attenuated to state an actionable [§ 1983](#) claim.

[5]  [6]  In regards to Williams and the Helena Police Department, Wright was acting as a private actor while employed at the Pulaski County Sheriff's Department. The Due Process Clause contains no language which requires the State to protect its citizens against the deeds of private actors. [DeShaney, 489 U.S at 195, 109 S.Ct. at 1003](#). The failure to protect an individual against private violence does not constitute a violation of the Due Process Clause. *Id.* at 197, [109 S.Ct. at 1004](#). While state law does require that a form be completed upon the resignation of an officer from a department, state law does not impose an affirmative duty to recommend decertification.

We have considered plaintiffs' other allegations relating to the [§ 1983](#) claim against Williams and find that none of them are meritorious. The trial court properly dismissed plaintiffs' [§ 1983](#) claim against Williams.

## V.

[7]  [8]  [9]  [10]  Williams has brought a cross-appeal on plaintiffs' Arkansas state claim for outrage. The district court denied Williams' motion for summary judgment on this claim ruling that genuine issues of material fact were left to be resolved regarding Williams' intent. The district court's application of state law is subject to de novo review. [Church of God in Christ, Inc. v. Graham, 54 F.3d 522, 525 \(8th Cir.1995\)](#). Four elements are necessary to establish the Arkansas state tort claim of outrage:

(1) the actor intended to inflict emotional distress or knew or should have known that emotional distress was the likely result of his conduct; (2) the conduct was "extreme and outrageous," was "beyond all possible bounds of decency" and was "utterly intolerable in a civilized community"; (3) the actions of the defendant were the cause of the plaintiff's distress; and (4) the emotional distress sustained by the plaintiff was so severe that no reasonable man could be expected to endure it.

[Deitsch v. Tillery, 309 Ark. 401, 833 S.W.2d 760, 762 \(1992\)](#), citing, [Counce v. M.B.M. Co. Inc., 266 Ark. 1064, 597 S.W.2d 92, 94 \(1979\)](#). Even grossly negligent conduct cannot be characterized as "atrocious or exceeding all possible bounds of decency." [Wood v. National Computer Systems, Inc., 814 F.2d 544, 545 \(8th Cir.1987\)](#). Arkansas courts take a narrow view of claims for outrage. [Hamaker v. Ivy, 51 F.3d 108, 110 \(8th Cir.1995\)](#), citing, [Ross v. Patterson, 307 Ark. 68, 817 S.W.2d 418, 420 \(1991\)](#).

[11]  The first element deals with Williams' intent. It is our view that Williams could not have formed the intent to commit the tort of outrage. The acts of Wright while working in Pulaski County are simply too tenuous to be imputed to Williams. This element couples with the third element. Williams could not foresee the acts of Wright. Therefore, Williams could not be the cause of the plaintiffs' distress.

[\[12\]](#)  [\[13\]](#)  The second element requires that the conduct be both extreme and outrageous. *Id.* (emphasis omitted). We look at the following factors in determining whether the conduct is extreme and outrageous, “the conduct at issue; the period of time over which the conduct took place; the relation between plaintiff and defendant; and defendant’s knowledge that plaintiff is peculiarly susceptible to emotional distress by reason of some physical or mental peculiarity.” *Id.* at 111 (citations omitted). We believe that when analyzing the factors the plaintiffs fail on all counts. The conduct of Williams complained of was the failure to recommend decertification on the change of status form and to inform the Pulaski Sheriff’s Office of Wright’s past misconduct. Williams’ conduct can in no way be termed “extreme and outrageous.” Williams had absolutely no prior contact with either of the plaintiffs. The plaintiffs were not in the custody and care of Williams. Since he had no contact with the plaintiffs there is no way he could have \*270 known if the plaintiffs were in any way susceptible to emotional distress. We choose not to address the fourth element. The case was dismissed on summary judgment and the record was not well-developed as to the damages the plaintiffs sustained.

The district court relied exclusively on *Deitsch* to deny Williams’ motion on the outrage claim. In our view, this case is not controlling. *Deitsch* came before the Arkansas Supreme Court following a dismissal for failure to plead a claim upon which relief could be granted. [833 S.W.2d at 761](#). The plaintiffs in *Deitsch* were a group of parents whose children attended the Westside Elementary school and one employee. *Id.* The plaintiffs alleged the defendants, school employees, school board members and the school district, had failed to protect plaintiffs against the presence of friable asbestos in the school, thus resulting in the tort of outrage. *Id.* The complaint alleged that during “spring break” of March, 1990, over 30,000 square feet of ceiling tile, containing asbestos, was improperly and negligently removed. *Id.* The Court noted that the alleged proper standards for asbestos treatment, comprising both federal and state regulations, were set out extensively in the complaint. *Id.* at 762. It was alleged that the defendants were aware of the asbestos material present in the school and intentionally violated these regulations. *Id.* at 761. We believe that *Deitsch* is distinguishable. First, the asbestos in *Deitsch* imposed a clear and immediate danger to the children who went to school at Westside Elementary. Second, the defendants in *Deitsch* were aware of the extensive regulation involving asbestos. Third, the students were in the care and custody of school officials. This created a unique relationship between the students and school officials. Lastly, in *Deitsch* the complaint alleged that in the years prior to its removal, the asbestos had been agitated causing daily incidents of exposure. We do not believe that Wright was a clear and immediate danger when he left the Helena Police Department. Williams complied with state regulations in filling out the change of status report concerning Wright’s resignation from the force. Williams in no way was in care or custody of the plaintiffs. The conduct of Williams did not result in a pervasive daily exposure to harm. We reverse the district court as to the outrage claim.

## VI.

Finally, we believe the indemnity and contribution claim of Gravett does not need to be addressed. The plaintiffs’ claim against Williams was properly dismissed. Therefore, the contribution claim of Gravett against Williams is moot.

## VII.

The decisions of the district court in dismissing the [§ 1983](#) claims made by plaintiffs and

Gravett against Williams are hereby affirmed. The district court's decision denying Williams' summary judgment on plaintiffs' pendent state claim of outrage is reversed. The action is remanded with directions to dismiss all claims against defendant Williams.

C.A. 8 (Ark.), 1996.  
Doe v. Wright  
82 F.3d 265

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