

United States Court of Appeals
For the Eighth Circuit

No. 22-3152

Deverick Scott

Plaintiff - Appellee

v.

Dexter Payne, Director, ADC; Marshall Reed, Assistant Director, ADC; Gibson, Warden, VSM Unit, ADC; Shipman, Assistant Warden, VSM Unit, ADC; Plummer, Captain, VSM Unit, ADC; Carroll, Major, VSM Unit, ADC; Lord, Lieutenant, VSM Unit, ADC; Jones, Lieutenant, VSM Unit, ADC; Washington, Lieutenant, VSM Unit, ADC

Defendants

Jonathan Vineyard, Corporal, VSM Unit, ADC (originally Vineyard)

Defendant - Appellant

Whittaker, Corporal, VSM Unit, ADC; Brown, Lieutenant, VSM Unit, ADC; Garcia, Sergeant, VSM Unit, ADC; King, Sergeant, VSM Unit, ADC; Gloria Thompson, Grievance Officer, VSM Unit, ADC

Defendants

Appeal from United States District Court
for the Eastern District of Arkansas - Central

Submitted: July 27, 2023

Filed: August 1, 2023

[Unpublished]

Before LOKEN, ERICKSON, and STRAS, Circuit Judges.

PER CURIAM.

Jonathan Vineyard, an Arkansas correctional officer, appeals the decision denying summary judgment on Deverick Scott's First Amendment retaliation claim. Having carefully reviewed the record and the arguments that we can consider in this interlocutory appeal, *see Heartland Acad. Cmty. Church v. Waddle*, 595 F.3d 798, 804, 807 (8th Cir. 2010) (explaining that our review is de novo, but we cannot consider sufficiency-of-the-evidence challenges), we agree with the district court¹ that genuine issues of material fact exist, *see Garcia v. City of Trenton*, 348 F.3d 726, 729 (8th Cir. 2003) (looking to whether a person of "ordinary firmness" would have been chilled); *Irving v. Dormire*, 519 F.3d 441, 451 (8th Cir. 2008) (recognizing that causing a prisoner to be seen as a "snitch" puts him "in danger of being assaulted or killed by other inmates"). We accordingly affirm. *See* 8th Cir. R. 47B.

¹The Honorable D. Price Marshall, Jr., Chief Judge, United States District Court for the Eastern District of Arkansas, partially adopting the report and recommendations of the Honorable Patricia S. Harris, United States Magistrate Judge for the Eastern District of Arkansas.