

United States Court of Appeals For the First Circuit

No. 05-2522

ADAM JENNINGS,
Plaintiff, Appellant,

v.

KENNETH JONES,
Defendant, Appellee.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF RHODE ISLAND

[Hon. Ernest C. Torres, U.S. District Judge]

Before
Torruella, Lynch and Lipez, Circuit Judges.

ORDER OF COURT

Entered: August 17, 2007

Appellee Kenneth Jones filed a petition for rehearing en banc in this case, which, under our Internal Operating Procedure X, encompasses a petition for panel rehearing. The petition for rehearing is granted. Accordingly, the panel's March 7, 2007, opinion is withdrawn and the judgment of even date vacated.

The panel majority now issues a new opinion, which eliminates the portion of the original panel opinion concluding that the defendant had abandoned his motions for a new trial and a remittitur. Instead, the new opinion orders a remand so that the district court may address these motions. However, the portion of the decision concluding that the district court erred in vacating the jury verdict on the basis of qualified immunity remains intact. Hence, we once again order reinstatement of the jury verdict.

In conjunction with the issuance of the majority opinion this day, Judge Lynch files her dissent to the majority's decision vacating the judgment of the district court.

By the Court:
Richard Cushing Donovan, Clerk.

/s/ _____
By: Margaret Carter, Chief Deputy Clerk

[Certified copies to Hon. Ernest C. Torres and Mr. David DiMarzio, Clerk, United States District Court for the District of Rhode Island. Copies to Mr. Bradley and Ms. Partington.]