

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

File Name: 11a0876n.06

No. 10-5805

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Dec 21, 2011
LEONARD GREEN, Clerk

JAMES FREELS,)
)
Plaintiff-Appellant,)
)
v.)
)
COUNTY OF TIPTON, TENNESSEE; J.T.)
"PANCHO" CHUMLEY; GERALD SPENCER;)
CLARK DUNLAP; BOB BEANBLOSSOM,)
)
Defendants-Appellees,)
)
and)
)
TIPTON COUNTY SHERIFF'S DEPARTMENT,)
)
Defendant.)

ON APPEAL FROM THE
UNITED STATES DISTRICT
COURT FOR THE WESTERN
DISTRICT OF TENNESSEE

O P I N I O N

BEFORE: BATCHELDER, Chief Judge; COLE and COOK, Circuit Judges.

COLE, Circuit Judge. Plaintiff-Appellant James Freels sues Defendant-Appellees County of Tipton, Tennessee; Sheriff J.T. "Pancho" Chumley; Chief Deputy Clark Dunlap; Deputy Bob Beanblossom; Deputy Gerald Spencer; and Defendant Tipton County Sheriff's Department (collectively, "Tipton"). At the district court level, he brought numerous claims under 42 U.S.C. § 1983, alleging constitutional and statutory violations, as well as several state law claims. The district court granted all of Tipton's motions for summary judgment on all federal claims, finding that the defendants were entitled to qualified immunity. It declined to exercise jurisdiction over the

No. 10-5805

Freels v. County of Tipton, Tennessee, et al.

state law claims. On appeal, Freels challenges two of the district court's conclusions: that the defendants did not violate his Fourth Amendment right to an arrest free from excessive force, and that defendants did not violate Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131 *et seq.*, by failing to reasonably accommodate his disability during the arrest.

On October 12, 2007, Plaintiff-Appellant James Freels went to the Sheriff's Department, housed in the Tipton County Justice Center, to obtain incident reports concerning a recent property dispute with his neighbor. After obtaining the report, Freels proceeded to the clerk's office to initiate a criminal warrant against his neighbor. At the clerk's office, Freels identified himself by name. An employee recognized his name as corresponding to an outstanding arrest warrant for a minor misdemeanor and, pursuant to city policy, summoned the Sheriff's Department. Defendants Chief Deputy Clark Dunlap, Deputy Beanblossom, and Deputy Jay Rodriguez proceeded to the clerk's office, where they placed Freels under arrest, confiscated his cane, and escorted him to the jail, located elsewhere in the building.

We review a grant of summary judgment *de novo*. *See Coble v. City of White House, Tenn.*, 634 F.3d 865, 867 (6th Cir. 2011). Upon hearing oral argument and carefully considering the arguments and record on appeal, we conclude that the district court did not err in granting Defendants' motion for summary judgment based on qualified immunity. We agree with the district court that the officers reasonably accommodated Freels's disability, and consequently we do not decide whether the ADA applies to arrests. On all other issues, we AFFIRM the entry of judgment in favor of defendants for the reasons set forth in the district court's opinion.