

DA 19-0174

IN THE SUPREME COURT OF THE STATE OF MONTANA

2019 MT 263N

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HARRY RICHARDS and BILLY BUDD SULLIVAN,

Plaintiffs and Appellants,

v.

LINCOLN COUNTY - LCSO (ROBBY BOWE, STEVE SHORT, M. McKINNEY, and ASSOC., including by not limited to HP242, dispatchers, etc.); COMMISSIONERS (COLE, BERGET, DOWNEY); CO. ATTORNEY (CASSIDY and HIS DEPUTIES); JUDGE WHEELIS and ex JUDGE PREZEAU,

Defendants and Appellees.

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APPEAL FROM: District Court of the Nineteenth Judicial District,  
In and For the County of Lincoln, Cause No. DV 14-179  
Honorable Matthew Cuffe, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Harry Richards, Billy Budd Sullivan, Self-represented, Trego, Montana

For Appellee:

Maureen H. Lennon, Mitchell A. Young, MACo Defense Services, Helena, Montana (for Lincoln County)

Rutherford B. Hayes, Risk Management & Tort Defense Division, Helena, Montana (for HP242, (HP Trooper Joel Seiler) and Judge Wheelis)

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Submitted on Briefs: October 16, 2019

Decided: October 29, 2019

Filed:

  
Clerk

Justice Jim Rice delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Representing themselves, Plaintiffs Harry Richards and Billy Budd Sullivan appeal from the entry of summary judgment on all of their claims, by the Nineteenth Judicial District Court, Lincoln County, in favor of the Defendants, including Lincoln County and multiple Lincoln County officials and employees.

¶3 Plaintiffs' Complaint sets forth only generalized allegations and assertions against the Defendants, stating “. . . this is on going [sic] problems, harassment, abuse, ignoring the law, singling us out, endangering our lives, etc. etc. Things are escalating to unbearable proportions [sic].” Against the Sheriff's Office, the Complaint alleged “constantly mishandling legit complaints & 911 calls & refused us the right to file criminal charges.” Against the County Commissioners the Complaint asserted “Commissioners are promising answers to letters which were never done nor has there been any results to the serious issues.” Against county prosecutors and district court judges, the Complaint alleged they “failed to uphold the constitutions of the U.S. and the state. Its [sic] been severe negligence all the way around and through, they even allowed a Eureka VFW Rep. to steal and destroy files and take files. . . .” The Complaint asserted a deputy sheriff “endangered our lives on

several occasions [sic] with accusations that severely interfered with medical treatments, trespassers, harassment, assaults [sic], bodily injuries. . . .” In response to the District Court’s order for a more definite statement, Plaintiffs added factual contentions that Deputy Short “caused Eureka Health to terminate medical treatment of Harry Richards because of false allegations,” and that Trooper Sieler “stood in the woods outside plaintiff’s home with a rifle sited [sic] on plaintiffs, during a call that plaintiffs initiated.” Plaintiffs’ pleadings failed to articulate a definitive cause of action.

¶4 The District Court declined to rule on Defendants’ motion to dismiss for Plaintiffs’ failure to state a cognizable claim, electing instead to consider the matter on summary judgment. The District Court granted judgment in favor of Defendants Deputy Sheriff Bowe and Commissioners Cole, Berget, and Downey after conducting a public duty doctrine analysis, and held there was no special relationship and thus no duty owed to Plaintiffs; that prosecutorial immunity attached to Defendant County Attorneys Cassidy, Cik and Slomski; that qualified immunity attached to the claims against Defendants Deputies Short and McKinney because their actions were reasonable under the circumstances; that the defamation and negligence claims against Defendant Deputy Short were based upon hearsay, inadmissible evidence, and unsupported allegations; and that the Lincoln County Sheriff’s Office was not a proper defendant. However, the District Court also concluded, more broadly, that “Plaintiffs fail to provide *any* facts, and do not cite *any* legal basis establishing the existence of a duty to act on the part of *any* of the County Defendants.” (Emphasis added.)

¶5 On appeal, the Plaintiffs argue only that the public duty doctrine should yield to the general duty of ordinary care required of all persons under § 27-1-701, MCA, and that they “were not afforded the opportunities to obtain their discovery thus hindering them in the presentation of evidence.” They do not address most of the District Court’s holdings. Defendants reply that Plaintiffs’ discovery contentions stem from their misunderstanding of the discovery process as self-executing, and that they failed to initiate discovery pursuant to the rules of civil procedure. In this regard, the District Court noted the Plaintiffs had failed to adhere to procedural rules and that, even though Plaintiffs had been given considerable latitude as pro se litigants, the court could not conduct legal research and develop legal analysis on their behalf.

¶6 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. This appeal presents no constitutional issues, no issues of first impression, and does not establish new precedent or modify existing precedent. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review. The District Court’s interpretation and application of the law were correct. The Plaintiffs failed to meet their summary judgment burden in the District Court, and have likewise failed to meet their burden on appeal to establish reversible error.

¶7 Affirmed.

/S/ JIM RICE

We concur:

/S/ JAMES JEREMIAH SHEA

/S/ DIRK M. SANDEFUR

/S/ LAURIE McKINNON

/S/ INGRID GUSTAFSON