

United States Court of Appeals,
Eleventh Circuit.
Sylvester BUTLER, Kelvin Frazier, Curt Massie,
Jeremiah Thomas, Eugene E. Ulrath, et. al.,
Plaintiffs-Appellees,

v.

James McDONOUGH, in his official capacity, et. al.,
Defendants,

James Wilson, in his individual capacity, Defendant-
Appellant.

No. 06-13662

Non-Argument Calendar.

Nov. 30, 2006.

[Frank Damon Kitchen](#), [J. Ray Poole, Jr.](#), Constangy,
Brooks & Smith, LLC, Jacksonville, FL, for
Defendant-Appellant.

Cassandra Jae Capobianco, [Christopher Michael
Jones](#), Kristen Cooley Lentz, Florida Institutional
Legal Services, Gainesville, FL, [George E. Schulz,
Jr.](#), Holland & Knight, [J. Dixon Bridgers, III](#), Vernis
& Bowling of North Florida, PA, Jacksonville, FL,
[Peter M. Siegel](#), [Randall C. Berg, Jr.](#), Miami, FL, for
Plaintiffs-Appellees.

Appeal from the United States District Court for the
Middle District of Florida. D.C. Docket No. 04-
00917-CV-J-32-MMH.

Before [ANDERSON](#), [BIRCH](#) and [FAY](#), Circuit
Judges.

PER CURIAM:

****1** This action is brought by a group of current and
former inmates of the Florida Department of
Corrections against multiple***742** current and former
correctional officers. This appeal involves only one
of many rulings by the district court; to wit: the
denial of the motion to dismiss filed by
defendant/appellant James Wilson as to the
allegations made against him by plaintiff/appellee
Jeremiah Thomas. The basis of the motion to dismiss
is qualified immunity. We agree with the district
court that the allegations of the Second Amended
Complaint are sufficient to withstand this motion. ^{FN1}

^{FN1}. Of course, this ruling does not prevent

the district court from revisiting the issue of
qualified immunity after a full development
of the evidence should the appellant present
a motion for summary judgment.

AFFIRMED.

C.A.11 (Fla.),2006.

Butler v. McDonough

208 Fed.Appx. 741, 2006 WL 3450148 (C.A.11
(Fla.))

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