

MITCHELL V. PEOPLES: CEMENTING A SIMPLE RULE: ELEVENTH CIRCUIT
CONTINUES TO EXTEND “SPECIAL CONSTITUTIONAL PROTECTIONS” TO
PRISON INMATES’ LEGAL MAIL

JAMES MITCHELL*

In *Mitchell v. Peoples*, the United States Court of Appeals for the Eleventh Circuit addressed a pro se complaint brought under 42 U.S.C. § 1983 by Rico Mitchell, a pretrial detainee, alleging that certain county jail officials violated his constitutional rights.¹ Mitchell alleged that the defendant jail officials—Detective Simpson, Sergeant Peoples, J.M. Perkins (a mail clerk) and Sargent Clark (the mailroom supervisor)—violated his First Amendment right to free speech by confiscating and reviewing all his incoming and outgoing mail outside his presence, including his legal mail.² The United States District Court for the Middle District of Florida denied the defendants’ motion to dismiss Mitchell’s claims on qualified immunity grounds.³ On appeal, the Eleventh Circuit affirmed the district court’s ruling, holding that the defendants were not entitled to qualified immunity because Mitchell demonstrated that (1) the defendants’ conduct violated his constitutional rights, and (2) their conduct was clearly established as unlawful.⁴

The plaintiff, Rico Mitchell, was a pretrial detainee at the Duval County Jail in Jacksonville, Florida where Detective Simpson “took a particular interest in Mitchell’s mail” for reasons not included in the record.⁵ Detective Simpson instructed jail staff “to ‘obtain,’ ‘seize,’ and ‘confiscate and review’ all of Mitchell’s incoming and outgoing mail.”⁶ Mitchell noticed his mail had been tampered with when defendant Perkins “delivered a letter from Mitchell’s attorney marked ‘Legal Mail’ that had already been opened.”⁷ It became clear to Mitchell that Perkins read the attorney’s letter when he asked Mitchell specific questions regarding his case.⁸ Mitchell continued to have problems with his mail over the following year.⁹ On one occasion, “Perkins switched an outgoing letter to Mitchell’s family with

*Junior Editor, *Cumberland Law Review*; Candidate for Juris Doctor, May 2023, Cumberland School of Law; B.A. Accounting, May 2020, Covenant College.

¹ *Mitchell v. Peoples*, 10 F.4th 1226 (11th Cir. 2021).

² *Mitchell*, 10 F.4th at 1228.

³ *Id.* at 1229.

⁴ *Id.* at 1228.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Mitchell*, 10 F.4th at 1228.

⁹ *Id.*

another inmate’s letter.”¹⁰ When Mitchell attempted to raise his concerns about his mail, “Sargent Clark, who was the mailroom supervisor, tried to ‘intimidate’ Mitchell, intercepting his grievances and warning him to stop filing complaints.”¹¹

Mitchell then “turned to the courts for help” and filed a pro se complaint “alleging that Simpson, Perkins, Clark, and Peoples violated his constitutional rights.”¹² While the district court dismissed the claim against Peoples for failure to serve process, it rejected the remaining defendants’ qualified immunity defense as a basis for dismissal.¹³ The remaining defendants appealed the district court’s decision.¹⁴

The Eleventh Circuit reviewed de novo the district court’s decision and noted that plaintiffs have a “steep hill to climb” in overcoming the qualified immunity doctrine, which protects “all but the plainly incompetent or those who knowingly violate the law.”¹⁵ To prevail over the defendants’ qualified immunity defense, the court required Mitchell to establish that “(1) [the] officials violated a federal statutory or constitutional right, and (2) that their conduct was clearly established as unlawful at the time.”¹⁶

The court first assessed whether Mitchell sufficiently alleged that the defendants violated his constitutional rights.¹⁷ Citing Supreme Court precedent, the court acknowledged that “an inmate retains those First Amendment rights that ‘are not inconsistent with his status as a prisoner or with the legitimate penological objectives of the corrections system.’”¹⁸ Mitchell, as a pretrial detainee, “possesses at least the same constitutional rights as convicted prisoners.”¹⁹ These constitutional rights include “the right of access to the courts and the right to free speech. . . . [B]oth rights are violated when an inmate’s legal mail is opened outside of his presence.”²⁰ While the Eleventh Circuit has previously held that the right of access to the courts “includes the protection of uninhibited, confidential information with their attorneys,”²¹ the court recognized that there are security issues with delivering unopened mail to inmates.²² To balance these competing interests,

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 1228–29.

¹³ *Id.* at 1229.

¹⁴ *Mitchell*, 10 F.4th at 1229.

¹⁵ *Id.* (quoting *District of Columbia v. Wesby*, 138 S. Ct. 577, 589 (2018)).

¹⁶ *Id.* (citing *Wesby*, 138 S. Ct. at 589).

¹⁷ *Id.*

¹⁸ *Id.* (quoting *Turner v. Safley*, 482 U.S. 78, 95 (1987)).

¹⁹ *Mitchell*, 10 F.4th at 1229 (citing *Bell v. Wolfish*, 441 U.S. 520, 545 (1974)).

²⁰ *Id.*

²¹ *Id.* at 1230 (quoting *Taylor v. Sterrett*, 532 F.2d 462, 473 (5th Cir. 1976)) (internal quotation marks omitted).

²² *Id.* (citing *Taylor*, 532 F.2d at 477).

the court cited the “simple rule” it articulated nearly fifty years ago in *Taylor v. Sterrett*, which established that “jail officials could open—but not read—legal mail and even then only in the inmate’s presence.”²³ This rule allows inmates to trust the confidentiality of their legal mail and for prison officials to preserve security measures.²⁴

Prison officials who violate this rule violate an inmate’s constitutional right of access to the courts and right to free speech; however, these claims have separate burdens of proof.²⁵ Unlike an access-to-courts claim—which requires the plaintiff to show an “actual injury” flowing from the jail staff’s conduct—a free speech claim does not require allegations of actual injury because “protection of an inmate’s freedom to engage in protected communications is a constitutional end in itself.”²⁶ The only question for a free speech claim, as it relates to opening legal mail outside the inmate’s presence, is if such conduct is “enough to chill, inhibit, or interfere with [the inmate’s] ability to speak, protest, and complain openly to his attorney.”²⁷

Here, Mitchell alleged that:

Simpson instructed jail staff to “confiscate and review” Mitchell’s mail without his knowledge in July 2016. And sometime later, Mitchell discovered that Perkins had opened his legal mail outside of his presence—pursuant to Simpson’s order, we assume. Clark, the mailroom supervisor, apparently knew about the illegal conduct after Mitchell filed grievances, but still failed to stop Simpson’s policy from being implemented—instead, he threatened Mitchell, warning him against filing more grievances.²⁸

Broadly construing Mitchell’s allegations, the court determined that Mitchell had a valid First Amendment violation claim based on the defendants’ alleged “pattern and practice of opening [Mitchell’s] legal mail outside of his presence,” which “chills, inhibits, and interferes with an inmate’s speech”²⁹

²³ *Id.* (citing *Taylor*, 532 F.2d at 478).

²⁴ *Id.* (citing *Taylor*, 532 F.2d at 477).

²⁵ *Mitchell*, 10 F.4th at 1230 (citing *Al-Amin v. Smith*, 511 F.3d 1317, 1320 (11th Cir. 2008)).

²⁶ *Id.* (quoting *Al-Amin*, 511 F.3d at 1333).

²⁷ *Id.* (quoting *Al-Amin*, 511 F.3d at 1334) (internal quotation marks omitted).

²⁸ *Id.* at 1231.

²⁹ *Id.* (quoting *Al-Amin*, 511 F.3d at 1334) (internal quotation marks omitted).

The court then addressed the second prong of the qualified immunity analysis of whether the defendants’ conduct was “clearly established at the time” as unlawful.³⁰ To satisfy this prong, the court explained that “Mitchell must point to precedent that is clear enough that every reasonable official would interpret it to establish the particular rule the plaintiff seeks to apply.”³¹ The court reiterated the “simple rule” it established in *Taylor*: “a prison official violates an inmate’s constitutional rights when the official opens attorney mail outside the inmate’s presence.”³² In 2008, the court re-affirmed this rule in *Al-Amin v. Smith* and found that *Taylor* gave prison officials “fair and clear notice” that opening and reading an inmate’s legal mail outside the inmate’s presence is unconstitutional.³³ The court explained that “if any doubt lingered before *Al-Amin*, we certainly made it clear in that case that such conduct was unconstitutional.”³⁴

The defendants in *Mitchell* argued that “their conduct was not ‘clearly established’ as unlawful because Perkins only opened one letter from Mitchell’s attorney outside his presence and [Eleventh Circuit] precedent has only held that a ‘pattern and practice’ of opening legal mail outside an inmate’s presence violates his free speech rights.”³⁵ However, the court did not address this argument,³⁶ noting that its decision in *Al-Amin* “place[d] no numerical qualifications on that rule.”³⁷ Based on its ruling in *Al-Amin*, the court concluded that “any reasonable official at the time of these events would have known that opening Mitchell’s legal mail outside of his presence was unconstitutional.”³⁸ Thus, the court affirmed the district court’s decision to deny qualified immunity to the defendants at the motion to dismiss stage.³⁹

The Eleventh Circuit’s analysis in *Mitchell* not only highlights the steep hill plaintiffs must climb when bringing a claim under § 1983, but also reinforces the “special constitutional protections” extended to an inmate’s legal mail.⁴⁰ For nearly fifty years, the Eleventh Circuit has upheld its simple rule that legal mail must be opened in an inmate’s presence. The court’s analysis in *Mitchell* makes it abundantly clear that any reasonable prison

³⁰ *Mitchell*, 10 F.4th at 1231.

³¹ *Id.* (quoting *Wesby*, 138 S. Ct. at 589).

³² *Id.* (quoting *Al-Amin*, 511 F.3d at 1336).

³³ *Id.* (quoting *Al-Amin*, 511 F.3d at 1336); *See Al-Amin*, 511 F.3d at 1332 (stating that “a reasonable official would have known in 2004–05 that opening properly marked, incoming attorney mail outside the inmate’s presence is unlawful and unconstitutional.”).

³⁴ *Mitchell*, 10 F.4th at 1231.

³⁵ *Id.* at 1232.

³⁶ *Id.* (“Because we read Mitchell’s complaint to allege that the defendants engaged in a ‘pattern and practice,’ we do not need to consider this argument.”).

³⁷ *Id.* (citing *Al-Amin*, 511 F.3d at 1332, 1336).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Mitchell*, 10 F.4th at 1229.

official should know that opening an inmate's legal mail outside of the inmate's presence—even one time—violates the inmate's constitutional rights.