

December 5, 2011

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

TENTH CIRCUIT

JUDEE PENNINGTON,

Plaintiff-Appellant,

v.

UINTA COUNTY, WYOMING;
LOUIS NAPOLI, Uinta County
Sheriff; UINTA COUNTY BOARD
OF COUNTY COMMISSIONERS,

Defendants-Appellees.

and

TODD HOOVER, Uinta County
Detention Officer,

Defendant.

No. 10-8108
(D.C. No. 2:09-CV-00023-WFD)
(D. Wyo.)

ORDER AND JUDGMENT*

Before **GORSUCH, HOLMES, and MATHESON**, Circuit Judges.

While she was an inmate at the Uinta County Detention Center, Judee Pennington suffered sexual assault at the hands of detention officer Todd Hoover.

* This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Ms. Pennington filed suit under 42 U.S.C. § 1983, claiming not only that Mr. Hoover violated her Eighth Amendment rights, but that Sheriff Louis Napoli and Uinta County did too. What happened to Ms. Pennington is inexcusable. No one before this court disputes that Mr. Hoover deserved the time in prison he received for his criminal conduct. And no one before this court disputes that Mr. Hoover must also stand trial for his conduct in this civil matter. But because the record as developed by the parties in this case contains no evidence that either the Sheriff or County was aware Mr. Hoover posed a danger of sexually assaulting inmates, the district court held them entitled to summary judgment. Ms. Pennington challenges that result, but after careful review of the parties' briefs and the record we discern no error in the district court's disposition. Neither do we think we might improve on its careful, twenty-three page explanation why the law compels the result it reached. We therefore adopt its reasoning and affirm.

ENTERED FOR THE COURT

Neil M. Gorsuch
Circuit Judge