

## **Pritchard v. County of Erie**

Case No.: 1:04-cv-00534-RJA-HBS

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK, BUFFALO DIVISION

August 25, 2017

### **Reporter**

2017 U.S. DIST. CT. MOTIONS LEXIS 101868 \*

Pritchard et al v. The County of Erie et al

**Type:** Motion

### **Judges**

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Richard J. Arcara

### **Title**

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**MOTION FOR SUMMARY JUDGMENT WITH CERTIFICATE OF SERVICE**

### **Text**

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**[\*1]** PLEASE TAKE NOTICE that Defendants, The County of Erie, Patrick M. Gallivan, Timothy Howard, Donald Livingston and Robert G. Huggins (hereinafter the "Defendants"), will and hereby do move for an order of the Court granting them summary judgment and dismissing the Plaintiffs' Complaint in its entirety as a matter of law.

The Defendants' are entitled to judgment as a matter of law pursuant to [Federal Rules of Civil Procedure Rule 56](#) and the United States Supreme Court's decision in [Florence v. Board of Chosen Freeholders of the County of Burlington, 566 US 318, 132 S. Ct 1510 \(2012\)](#), which overruled the very legal theory upon which Plaintiffs' action was based. Defendants' policies and practices at issue - concerning "strip searches" of detainees arrested for misdemeanors and other minor crimes upon their admission to the County correctional facilities -were constitutional as a matter of law prior to Florence. However, even accepting as true the evidence and allegations relied upon by Plaintiffs, Florence made clear that it is constitutionally permissible to conduct a "strip search" of a detainee upon admittance to a correctional facility

regardless of the criminal charges asserted against the detainee. Accordingly, the Plaintiffs' claims are without basis in fact or in law, **[\*2]** and must be dismissed.

This motion is based on this Motion, Defendants' Rule 56 Statement of Facts, dated August 25, 2017, the Appendix to Defendants' Rule 56 Statement of Facts with Exhibits A through 25, dated August 25, 2017, and Memorandum of Law, dated August 25, 2017.

DATED: August 25, 2017

Respectfully submitted,

BARCLAY DAMON LLP

By:

/s James P. Domagalski

James P. Domagalski, Esq.

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UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK CERTIFICATE OF SERVICE

I, James P. Domagalski, Esq., hereby certify that a copy of the foregoing Motion for Summary Judgment, dated August 25, 2017, together with a copy of the Defendants' Rule 56 Statement of Facts, dated August 25, 2017, the Appendix to Defendants' Rule 56 Statement of Facts with Exhibits A through Z, dated August 25, 2017, and Memorandum of Law, dated August 25, 2017, were served, electronically, upon the following, on this 25th day of August, 2017:

Elmer Robert Keach, III, Esq.

Attorney **[\*3]** for Plaintiffs

P.O. Box 70 Amsterdam, NY 12010  
/s James P. Domagalski  
James P. Domagalski

[SEE ATTACHMENT IN ORIGINAL]