

**11-10362 MILLBROOK V. UNITED STATES**

DECISION BELOW: 2012 WL 1384918

LOWER COURT CASE NUMBER: 12-1531

**QUESTION PRESENTED:**

- 1). Whether The U.S. Court OF Appeals Erred by aFFirming summary Judgement in favor oF the deFendants On the intentional tort claim only without addressing, hearing or ruling on the negligence claim and disregarded it?
- 2). Should have the U.S. Court of APPeals aFFirmed in Part in Favor OF the Defendants as to the intentional claim, and reversed in Part in Favor oF the Plaintiff as to the negligence claim, and thereby ordering the lower district court to Proceed On the negligence claim?
- 3). Whether based on questions one and two (1) and (2), the Plaintiff was PreJudiced thereby?

LIMITED TO THE FOLLOWING QUESTION: WHETHER 28 U.S.C §§1346(b) AND 2680(h) WAIVE THE SOVEREIGN IMMUNITY OF THE UNITED STATES FOR THE INTENTIONAL TORTS OF PRISON GUARDS WHEN THEY ARE ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT BUT ARE NOT EXERCISING AUTHORITY TO “EXECUTE SEARCHES, TO SEIZE EVIDENCE, OR TO MAKE ARRESTS FOR VIOLATIONS OF FEDERAL LAW.”

CERT. GRANTED 9/25/2012