

SUPREME COURT OF INDIANA

Wilson v. Isaacs

929 N.E.2d 200 (Ind. 2010) · No. 09S05-1003-CV-149 · Decided June 28, 2010

SUMMARY

The Indiana Supreme Court held that Indiana Tort Claims Act law-enforcement immunity does not shield governmental entities or employees from liability for a law-enforcement officer's use of unreasonable or excessive force. Because genuine issues of material fact remained regarding whether a deputy's repeated use of a taser was reasonable and necessary to effect an arrest, the court reversed summary judgment for the Sheriff. The court summarily affirmed summary judgment for the deputy personally.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Justice Dickson; Chief Justice Shepard; Justice Sullivan; Justice Boehm; Justice Rucker
JURISDICTION	Indiana
DECIDED	June 28, 2010
DOCKET	09S05-1003-CV-149
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from summary judgment for defendants in an action for damages arising from alleged excessive use of police force. The Indiana Court of Appeals affirmed summary judgment for Deputy Craven but reversed summary judgment for Sheriff Isaacs. On transfer, the Indiana Supreme Court reviewed the partial reversal.
STANDARD OF REVIEW	Summary judgment is reviewed under the same standard applied by the trial court and is proper only when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Legal questions concerning the availability of statutory immunity are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Richard Patrick Wilson, Billy Don Wilson v. Gene Isaacs, Sheriff of Cass County, Brad Craven

TOPICS

municipal liability

summary judgment

statutory interpretation

assault

battery

PRACTICE AREAS

torts

municipal law

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether Indiana Tort Claims Act law-enforcement immunity under Indiana Code section 34-13-3-3(8) shields governmental defendants from liability for a law-enforcement officer's allegedly unreasonable or excessive use of force.
2. Whether genuine issues of material fact concerning the reasonableness and necessity of Deputy Craven's use of force preclude summary judgment.
3. Whether summary judgment for Deputy Craven personally should stand where the plaintiffs did not seek relief on transfer from the Court of Appeals' affirmance.

HOLDINGS

1. A law-enforcement officer's use of force in excess of the reasonable force authorized by statute is not shielded from liability by the Indiana Tort Claims Act's enforcement-of-a-law immunity under Indiana Code section 34-13-3-3(8).
2. Genuine issues of material fact concerning whether Deputy Craven's conduct was reasonable and whether he reasonably believed the force was necessary to effect a lawful arrest precluded summary judgment on the plaintiffs' liability claims against the Sheriff.
3. The Court summarily affirmed the Court of Appeals' decision affirming summary judgment on the plaintiffs' claims against Deputy Craven personally because the plaintiffs did not seek relief on transfer as to that portion of the decision.

KEY QUOTATIONS

"We hold that a law enforcement officer's use of force in excess of the reasonable force authorized by statute is not shielded from liability under the "enforcement of a law" immunity provided in Indiana Code § 34-13-3-3(8) and that genuine issues of fact exist, precluding summary judgment." (929 N.E.2d at 202)

"In Kemezy v. Peters we declared, "the use of excessive force is not conduct immunized" by the "enforcement of a law" immunity of the Indiana Tort Claims Act." (929 N.E.2d at 203)

"Accordingly, the contrary view expressed in City of Anderson is disapproved." (929 N.E.2d at 204)

FACTUAL BACKGROUND

Deputy Brad Craven of the Cass County Sheriff's Department discharged his taser three times into Richard Patrick Wilson, including twice after Wilson was lying immobile on the ground. The plaintiffs alleged that they posed no threat, had no weapons, and were not sought by law enforcement. The parties agreed that factual

disputes existed concerning whether Craven's use of force was reasonable and whether he reasonably believed the force was necessary to effect a lawful arrest.

PROCEDURAL HISTORY

The trial court granted defendants summary judgment under the Indiana Tort Claims Act's law-enforcement immunity. The Court of Appeals affirmed summary judgment for Deputy Craven but reversed as to Sheriff Isaacs. The Supreme Court of Indiana reversed the trial court's grant of summary judgment on the claims against the Sheriff, summarily affirmed the Court of Appeals as to the claims against Deputy Craven personally, and remanded the Sheriff-related claims for trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The claims against the Sheriff of Cass County for liability arising from Deputy Craven's conduct were remanded for resolution at trial of the factual issues concerning whether Craven's conduct was reasonable and whether he reasonably believed the force was necessary to effect a lawful arrest.

CASES CITED

- Wilson v. Isaacs, 917 N.E.2d 1251 (Ind. Ct. App. 2009)
- Row v. Holt, 864 N.E.2d 1011, 1013 (Ind. 2007)
- Freidline v. Shelby Insurance Co., 774 N.E.2d 37, 39 (Ind. 2002)
- Kemezy v. Peters, 622 N.E.2d 1296, 1297 (Ind. 1993)
- King v. Northeast Security, Inc., 790 N.E.2d 474, 482-483 (Ind. 2003)
- Benton v. City of Oakland City, 721 N.E.2d 224, 230 (Ind. 1999)
- City of Anderson v. Davis, 743 N.E.2d 359, 365 n.4 (Ind. Ct. App. 2001), trans. denied
- Patrick v. Mirezzo, 848 N.E.2d 1083, 1085-1087 (Ind. 2006)
- City of Indianapolis v. Garman, 848 N.E.2d 1087 (Ind. 2006)
- Crawford v. City of Muncie, 655 N.E.2d 614, 622 (Ind. Ct. App. 1995), trans. denied
- City of South Bend v. Fleming, 397 N.E.2d 1075, 1077 (Ind. Ct. App. 1979), trans. not sought
- Fidler v. City of Indianapolis, 428 F. Supp. 2d 857, 867 (S.D. Ind. 2006)