

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Urija Elston v. County of Kane

No. 19-1746, United States Court of Appeals for the Seventh Circuit (January 28, 2020)

SUMMARY

The Seventh Circuit affirmed summary judgment for Kane County, holding that an off-duty deputy who assaulted a teenager for swearing was not acting within the scope of his employment under the Illinois Tort Immunity Act (745 ILCS 10/9-102). Applying Illinois' three-part scope-of-employment test, the court found the deputy failed the time/space limits (off-duty, out of uniform, outside jurisdiction) and the motive prong (acting out of personal animus, not to serve the employer). The decision clarifies that an officer's unauthorized use of a badge and gun for a purely personal goal does not trigger county indemnification.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Barrett; Easterbrook; Manion
JURISDICTION	Federal
DECIDED	January 28, 2020
DOCKET	19-1746
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from summary judgment granting dismissal of state-law claim under Illinois Tort Immunity Act.
PRECEDENTIAL VALUE	published
PARTIES	Urija Elston v. County of Kane

TOPICS

- vicarious liability
- sovereign immunity
- summary judgment
- torts
- civil procedure

PRACTICE AREAS

- Civil Rights
- Torts
- Government Liability
- Employment Law

QUESTIONS PRESENTED

1. Whether Demeter was acting within the scope of his employment as a sheriff's deputy when he assaulted Elston.

HOLDINGS

1. Summary judgment was proper because Demeter was not acting within the time and space limits of his employment nor with a purpose to serve his employer.

KEY QUOTATIONS

“As a matter of law, Demeter was acting as a private citizen, not within the scope of his duties as a sheriff’s deputy, when he injured Elston.” (3)

“No reasonable jury could conclude that Demeter’s actions were motivated, even in part, by an intent to serve his employer’s interests.” (6-7)

FACTUAL BACKGROUND

Urija Elston and his friends were playing basketball at a park while off-duty sheriff's deputy Brian Demeter was watching his child's soccer game. Demeter confronted them about using expletives, flashed his badge and gun, and then physically assaulted Elston, grabbing him by the neck, throwing him to the ground, and attempting to arrest him. Demeter pleaded guilty to battery, and Elston obtained a default judgment against Demeter for \$110,000. Elston then sued Kane County under the Illinois Tort Immunity Act to compel the County to pay the judgment, arguing Demeter acted within the scope of his employment.

PROCEDURAL HISTORY

Elston obtained a default judgment against Demeter for battery and then sued Kane County under the Illinois Tort Immunity Act to compel payment. The district court granted summary judgment to the County, finding Demeter was not acting within the scope of his employment.

DISPOSITION

affirmed

CASES CITED

- *Adames v. Sheahan*, 909 N.E.2d 742 (Ill. 2009)
- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986)
- *Brown v. King*, 767 N.E.2d 357 (Ill. App. Ct. 2001)
- *Doe v. City of Chicago*, 360 F.3d 667 (7th Cir. 2004)
- *Wolf v. Liberis*, 505 N.E.2d 1202 (Ill. App. Ct. 1987)
- *Gaffney v. City of Chicago*, 706 N.E.2d 914 (Ill. App. Ct. 1998)
- *Copeland v. County of Macon*, 403 F.3d 929 (7th Cir. 2005)
- *Carver v. Sheriff of LaSalle Cty.*, 787 N.E.2d 127 (Ill. 2003)

- Carver v. Sheriff of LaSalle Cty., 324 F.3d 947 (7th Cir. 2009)

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