

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Price v. Baker

693 F.2d 952 (10th Cir. 1982) · Decided December 1, 1982

SUMMARY

The Tenth Circuit affirmed a directed verdict for a county sheriff and his wife in a 42 U.S.C. § 1983 action arising from injuries sustained during an altercation. The court held that the sheriff was not negligent in attempting to restore order and that his wife, who was not an officer or agent of the state, did not act under color of state law when she struck the plaintiff. Because the plaintiff failed to establish negligence or state action, the court did not reach broader questions concerning the applicability of § 1983 to the alleged conduct.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Breitenstein
JURISDICTION	Federal
DECIDED	December 1, 1982
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a directed verdict in favor of defendants in a §1983 action.
PRECEDENTIAL VALUE	Published
PARTIES	Price v. Robert J. Baker and Lola M. Baker

TOPICS

section 1983

civil rights

police misconduct

state action

negligence

PRACTICE AREAS

civil rights

torts

constitutional law

QUESTIONS PRESENTED

- Whether the sheriff's negligence can support a §1983 claim.
- Whether Lola Baker acted under color of state law when she struck the plaintiff.

HOLDINGS

1. The sheriff was not negligent; he performed his duties competently in difficult circumstances. The failure to establish negligence makes it unnecessary to decide whether negligence suffices for §1983.
2. Lola Baker did not act under color of state law. She had no official authority and was not a willful participant in joint activity with the State or its agents. She acted individually on her own volition.

KEY QUOTATIONS

“Sheriff Baker faithfully and competently discharged his duties as such Sheriff in attempting to subdue breaches of the peace and restoring law and peace to the community of Westcliffe during a period of great turmoil.” (at 953)

“under color requirement is satisfied if an individual is a willful participant in joint activity with the State or its agents.” (at 954)

FACTUAL BACKGROUND

About midnight on July 30-31, 1979, a series of street brawls occurred in Westcliffe, Colorado. Plaintiff Price and others had been in a bar and left at closing time. Fights broke out. Sheriff Robert Baker and his wife Lola were on patrol. They came upon a brawl; the sheriff broke it up, but it resumed. The sheriff drove to the renewed altercation and got out of the car. His wife remained in the front passenger seat. Two men, Scott Canda and the plaintiff, got into the back seat and continued fighting. The wife struck the plaintiff in the mouth with a Rol-a-Tape, causing dental injuries. The sheriff was outside the car trying to quell the disturbance. The plaintiff sued under 42 U.S.C. § 1983, alleging negligence by the sheriff and that the wife acted under color of state law as a de facto deputy.

PROCEDURAL HISTORY

The district court directed a verdict for the defendants after a two-day jury trial. The plaintiff appealed.

DISPOSITION

affirmed

CASES CITED

- *Burton v. Wilmington Parking Authority*, 365 U.S. 715 (1961)
- *Parratt v. Taylor*, 451 U.S. 527 (1981)
- *Baker v. McCollan*, 443 U.S. 137 (1979)
- *Procunier v. Navarette*, 434 U.S. 555 (1978)
- *Paul v. Davis*, 424 U.S. 693 (1976)
- *Screws v. United States*, 325 U.S. 91 (1945)
- *Martinez v. California*, 444 U.S. 277 (1980)
- *Monroe v. Pape*, 365 U.S. 167 (1961)

- United States v. Price, 383 U.S. 787 (1966)
- Warren v. Cummings, 303 F. Supp. 803 (D. Colo. 1969)

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