

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION

DeAngelo Bowman v. Terry Vankeuren, Jr. and Noah Pillsbury

Case No. 21-12845 · No. Case No. 21-12845 · Decided December 13, 2025

SUMMARY

The United States District Court for the Eastern District of Michigan addresses whether the plaintiff could present evidence or argument that criminal charges were filed in retaliation for his § 1983 excessive-force lawsuit. The court concludes that the alleged charging delay is not part of the circumstances relevant to the excessive-force analysis and orders a curative jury instruction stating that retaliation and the alleged delay are not relevant to the claim.

CASE DETAILS

COURT	United States District Court for the Eastern District of Michigan, Southern Division
JURISDICTION	United States District Court for the Eastern District of Michigan, Southern Division
DECIDED	December 13, 2025
DOCKET	Case No. 21-12845
DISPOSITION	other
PROCEDURAL POSTURE	During a jury trial on Plaintiff's 42 U.S.C. § 1983 excessive-force claim, Defendants requested a curative instruction concerning Plaintiff's attempt to introduce evidence and argument that criminal charges were filed in retaliation for this lawsuit.
PRECEDENTIAL VALUE	unknown

TOPICS

- evidence
- relevance
- section 1983
- police misconduct
- jury instructions

PRACTICE AREAS

- civil rights
- evidence
- constitutional litigation
- jury instructions

QUESTIONS PRESENTED

1. Whether evidence concerning the alleged delay between the arrest and the filing of criminal charges was relevant to Plaintiff's excessive-force claim.
2. Whether Plaintiff's counsel could argue that the timing of the criminal charges demonstrated retaliation.
3. Whether the jury should receive a curative instruction stating that retaliation and the alleged delay were not relevant to the excessive-force claim.

HOLDINGS

1. The alleged delay between the underlying arrest and the decision to bring criminal charges was not relevant to whether Defendants used excessive force during the arrest.
2. The court granted Defendants' request for a curative instruction informing the jury that attorney statements are not evidence and that alleged retaliation and the alleged delay in bringing charges were not relevant to Plaintiff's excessive-force claim.

KEY QUOTATIONS

"Whether an arrest involved excessive use of force is determined by applying the standard of objective reasonableness to the specific conduct of the arresting officers in the context of the facts and circumstances actually present in the particular case."

"Retaliation is not a claim in this lawsuit, and neither the alleged retaliation nor the alleged delay are circumstances relevant to your assessment of Plaintiff's excessive force claim."

FACTUAL BACKGROUND

Defendants, officers with the City of Flint Police Department, arrested Plaintiff on October 4, 2020, after finding him asleep or passed out in his vehicle. Plaintiff filed this civil lawsuit, and criminal charges were brought approximately fourteen months after the incident and eight days after the lawsuit was filed. Plaintiff later pleaded guilty to operating while impaired and attempted resisting and obstructing a police officer. During trial, Plaintiff argued that the timing of the criminal charges suggested retaliation.

PROCEDURAL HISTORY

Plaintiff sued the defendant police officers under § 1983, alleging that they used excessive force during his October 4, 2020 arrest. While the case was being tried, Plaintiff's counsel questioned witnesses about the fourteen-month interval between the arrest and the filing of criminal charges, suggesting retaliation. The district court granted Defendants' request for a curative jury instruction excluding retaliation and the alleged charging delay from consideration of the excessive-force claim.

DISPOSITION

other

CASES CITED

- *Greene v. Distelhorst*, No. 96-3044, 1997 WL 351298 (6th Cir. 1997)

- Hammond v. Cnty. of Oakland, No. 17-13051, 2022 WL 3573856 (E.D. Mich. Aug. 19, 2022)
- Kidis v. Reid, No. 16-13070, 2018 WL 5000026 (E.D. Mich. Oct. 16, 2018)
- Webb v. Hiben, No. 12-12370, 2015 WL 5335011 (E.D. Mich. Sept. 14, 2015)
- Edgeron v. Matatall, No. 10-14954, 2014 WL 172258 (E.D. Mich. Jan. 15, 2014)
- Graham v. Connor, 490 U.S. 386, 388, 396 (1989)

OPINION

Bowman

PER CURIAM.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION
DEANGELO BOWMAN,

Plaintiff, v. Case No. 21-12845 Honorable Linda V. Parker TERRY VANKEUREN, JR. and
NOAH PILLSBURY,
Defendants. _____/

ORDER REGARDING EVIDENCE OF ALLEGED RETALIATION

This matter is currently being tried before a jury on Plaintiff's claim, brought under 42 U.S.C. § 1983, that Defendants violated his Fourth Amendment rights to be free from excessive force. The lawsuit arises from Plaintiff's arrest on October 4, 2020, after Defendants, who are officers with the City of Flint Police Department, found Plaintiff asleep or passed out in his vehicle. Criminal charges were brought against Plaintiff on December 14, 2021, eight days after he filed this civil lawsuit. On September 7, 2023, Plaintiff pleaded guilty to operating while impaired and attempted resisting and obstructing a police officer. During the trial in the current matter, which began on December 9, Plaintiff's counsel has asked witnesses about the fourteen-month gap between the incident at issue and the decision to bring criminal charges against Plaintiff. Because the charging decision followed closely after Plaintiff's filing of the current § 1983 lawsuit, his counsel has suggested to the jury that it was retaliatory. In response, Defendants have asked the Court for a curative instruction, informing the jury that there is no evidence of retaliation and that retaliation is not relevant to the jurors' assessment of whether Defendants used excessive force. Plaintiff counters that the alleged delay is relevant as it is part of the "totality of the circumstances." To support this argument, Plaintiff cites the following decisions: Greene v. Distelhorst, No. 96-3044, 1997 WL 351298 (6th Cir. 1997); Hammond v. Cnty. of Oakland, No. 17-13051, 2022 WL 3573856 (E.D. Mich. Aug. 19, 2022); Kidis v. Reid, No. 16-13070, 2018 WL 5000026 (E.D. Mich. Oct. 16, 2018); Webb v. Hiben, No. 12-12370, 2015 WL 5335011 (E.D. Mich. Sept. 14, 2015); and Edgeron v. Matatall, No. 10-14954, 2014 WL 172258 (E.D. Mich. Jan. 15, 2014). None of these cases support the admissibility of evidence in an excessive force trial of an alleged delay in the plaintiff's prosecution arising from the incident where excessive force was allegedly

used. Instead, what each of these cases hold is that the plaintiff's convictions arising from the subject incident are relevant and admissible. See *Greene*, 1997 WL 351298, at *3 (concluding that the plaintiff's convictions for drug use and resisting arrest arising from his arrest where he claimed excessive force was used were admissible); *Hammond*, 2022 WL 3573856, at *2, *3 (holding that the plaintiff's criminal sexual conduct and unlawful imprisonment convictions resulting from the night he was arrested were admissible "because such information is . . . needed to provide the jury with a complete picture of the events that led to his arrest by [the defendant]" who he claimed used excessive force to effectuate the arrest); *Kidis*, 2018 WL 5000026, at *3-4 (finding the plaintiff's guilty plea to "Attempted Assault/Resist/Obstruct" arising from the subject incident relevant and admissible "to provide the jury with a full account of the events giving rise to [his] excessive force claim"); *Webb*, 2015 WL 5335011, at *3-4 (finding admissible the plaintiff's nolo contendere plea for two home invasions, one of which was the home where the plaintiff was arrested and where he claimed excessive force was used against him); *Edgerson*, 2014 WL 172258, at *5 (denying the plaintiff's motion to preclude the admission of his convictions for driving without a license, resisting arrest, fleeing and alluding, and possession of marijuana following the events underlying his excessive force claim). The courts reasoned that the plaintiff's "criminal activity was part and parcel of the arrest" where the plaintiff claimed excessive force was used. *Greene*, 1197 WL 351298, at *3. As the Sixth Circuit explained in *Greene*: "Whether an arrest involved excessive use of force is determined by applying the standard of objective reasonableness to the specific conduct of the arresting officers in the context of the facts and circumstances actually present in the particular case." 1997 WL 3573856, at *3 (citing *Graham v. Connor*, 490 U.S. 386, 388 (1989)). As the Supreme Court advised in *Graham*, "the severity of the crime at issue" is a "fact[] and circumstance[]" that is part of "the totality of the circumstances" considered in deciding whether the force used was justified. 490 U.S. at 396. In comparison, the amount of time between the underlying event and the decision to charge the plaintiff is in no way "part and parcel of the arrest"—it is not among "the totality of the circumstances" relevant to whether the force used during the arrest was reasonable. For these reasons, the Court concludes that it was inappropriate for Plaintiff to have attempted to introduce evidence regarding the alleged delay in his prosecution and even more so to suggest that the jury infer retaliation based on the alleged delay. Therefore, the Court is granting Defendants' request for a curative instruction and will provide the following instruction: There has been argument that Defendants retaliated against Plaintiff by pressing charges against him shortly after he filed this lawsuit. You are reminded that statements by attorneys are not evidence. Retaliation is not a claim in this lawsuit, and neither the alleged retaliation nor the alleged delay are circumstances relevant to your assessment of Plaintiff's excessive force claim. SO ORDERED.