

For the International Municipal Lawyer's Association - IMLA's 5 things to know for April 2nd

1. After a brief hiatus, let's start April out with a bang. First, the Supreme Court this morning finally issued a decision in *Kisela vs Hughes* by summarily reversing the 9th Circuit and slapping it down big time. The case involved qualified immunity and whether a reasonable officer having been called about a woman with a knife hacking at a tree and acting erratically, then seeing a woman with a knife approaching another unarmed woman to within six feet and who refused to drop the knife on command should have used force in shooting that knife wielding woman. Apparently, the Supreme Court was not amused by the 9th Circuit's reliance on a case decided after the incident to deny immunity, which it then deleted from a revised opinion to rely on another of its cases for precedent. This the Court said did not survive the "straight face test."

https://www.supremecourt.gov/opinions/17pdf/17-467_bqm1.pdf

2. In Macomb County Michigan, that battle between the newly elected clerk and pretty much anyone else in the county reached a hopefully final conclusion with a decision finding that she was unqualified for the job. She apparently lied about her residency. That Tea Party candidate had one crony in the office who has also been fired. The clerk's efforts to prove residency at her stated address seemed hampered by the fact that the house lacked electrical, water and natural gas services.

<http://www.macombdaily.com/article/MD/20180327/NEWS/180329656>

<https://www.detroitnews.com/story/news/local/macomb-county/2018/03/29/macomb-county-clerks-deputy-terminated/470550002/>

3. Congratulations to NYC Corporation Counsel Zach Carter and to Deputy Corporation Counsel Devin Slack for a great win in that state's highest court. The city responded to a request for information under the state's freedom of information law regarding information pertaining to whether it was investigating a person by saying it could not confirm or deny whether it had information. The city contended that doing otherwise would either disclose that it was investigating or not investigating the person and that information would be both damaging and violate the benefits of an exemption in the state law.

<https://www.nycourts.gov/ctapps/Decisions/2018/Mar18/19opn18-Decision.pdf>

4. In a relatively recent decision the Supreme Court of South Carolina concluded that when a city fired its building official for issuing a stop work order the public policy exception to the "at will" employment doctrine applied.

<http://www.sccourts.org/opinions/HTMLFiles/SC/27771.pdf>

5. From the 8th Circuit today, that court concluded that qualified immunity does not protect officers where the facts involving an arrest and the use of force are disputed. While that concept seems hard to dispute, the case involves police acting while in secondary employment in uniform. They were working for a taxi company keeping order at a taxi stand late at night when some folks who apparently had been drinking a wee bit too much created a misunderstanding with the officers leading one inebriated arrestee to have cracked teeth and a fair amount of bruising. This case arose when the criminal defendant now civil Plaintiff was acquitted after a two day jury trial.

<http://media.ca8.uscourts.gov/opndir/18/04/163930P.pdf>

It's not too late, but it's going to be soon to join over 300 of your colleagues at the IMLA Seminar and Section 1983 defense program. Get more from IMLA by joining. Not a member? Contact us. Sign up at www.imla.org . Have a great day and make it an inspirational one.