Spring 2020 IMLA training

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A note before we start

- This body of law is quickly evolving and the Eighth Circuit seems to be on the front end of it. Every state has municipalities and most have what were once called municipal courts in Arkansas – local state courts of limited jurisdiction.
- Some states have local district courts that look like Arkansas's do now – that is they are local arms of the state court system. Some have courts that are wholly controlled by cities, and some states' local courts have even more limited jurisdiction.
- Some judges that sit on these courts are elected and some are appointed by the governor.
- However you slice it, this body of law is only going to get more important as time goes on. As you can see, there are a myriad of ways states can set up their local courts and the evolution of the rules so far has turned on control of the judges by the city, which in many cases will depend on the nuances of state law.

Fant v. City of Ferguson, Mo.

107 F.Supp.3d 1016 (E.D. Mo. 2015); 913 F.3d 757 (8th Cir. 2019)

SOMETIMES DISTRICT COURT JUDGES ARE MUNICIPAL EMPLOYEES

The facts

- Class action suit against the City of Ferguson.
- Plaintiffs alleged various constitutional violations
- Claimed, the city had a policy and custom of jailing residents indefinitely because they could not pay fines owed.
- The city moved to dismiss the claim under 12(b)(6.

Parties' arguments at trial

- City argued that the plaintiffs' claims were barred by either *Heck* or *Rooker-Feldman*
- Plaintiffs argued that *Heck* and *Rooker-Feldman* were not applicable.

The court's decision

- The court rejected the City's argument that *Heck* barred the Plaintiffs'
- The plaintiffs were not challenging their underlying convictions or sentences, but rather the improper procedures that got them there.
- The court also found that the plaintiffs' claims were not barred by *Rooker-Feldman*
- The plaintiffs were not challenging the state court judgment, merely the post-judgment procedures leading to their incarceration.
- The court ultimately held that the conduct that the plaintiffs alleged was a violation (at least that the plaintiffs had stated a plausible claim of deprivation of constitutional rights sufficient to survive a motion to dismiss), minus their equal protection claim.

At the Eighth Circuit

- City appeal the trial court's denial of its motion to dismiss based on sovereign immunity.
- City argued the "well-established principle that an order denying a claim of sovereign immunity is subject to interlocutory appeal."
- They pointed out that the court exercised jurisdiction in the *Webb* case (discussed briefly later) on this exact issue.
- The Eighth Circuit said however that the "principle . . . does not apply where the party appealing disclaims any immunity of its own and instead seeks to invoke the immunity of a nonparty."
- The court said that the city was trying to attempt to use the Ferguson Municipal Court's immunity to shield the city rather than what the city in *Webb* did – which was to assert sovereign immunity for both the city court and the city itself.

Why does this matter?

- It seems the court was willing to impute the judge's conduct to the city, at least for 12(b)(6) purposes, because the plaintiffs alleged in their complaint, and the city did not deny, that the city court was controlled and operated by the city.
- *Fant* is a teachable moment about the importance of state law in these cases – remember, municipal courts in Missouri were similar to the old city courts in Arkansas and the mayor or city council appointed the judges or in many cases, the mayors sat as the judges in court proceedings.

Evans v. City of Helena-West Helena

912 F.3d 1145 (8th Cir. 2019)

WHEN IS A DISTRICT COURT JUDGE A MUNICIPAL EMPLOYEE?

The facts

- Evans went to court after a traffic violation.
- She paid all fines and costs associated with the traffic violation.
- The clerk's office failed to document the payment.
- Clerk's office later requested a warrant for Evans' arrest for failure to make a payment.
- Evans was arrested and her vehicle was confiscated and towed.
- She was eventually released when it was discovered that she had actually paid all fines.
- Evans alleges she was arrested as a result of the City's failure to maintain proper records.

More facts and the trial court decision

- Evans sued Helena-West Helena for the clerk's failure to document her fine payments.
- She alleged that because of the clerk's failure, an arrest warrant was erroneously issued, she was arrested and detained, and her car was towed and impounded until the clerk discovered the mistake.
- The trial court found that the clerk and the district court itself were state-government officials who were not employed by HWH.
- The trial court ultimately ruled for HWH and it dismissed Evans's suit.

First arguments on appeal

- Evans argued that the district court clerk was not a state employee, but was a city employee.
- Evans argued that since the clerk was acting in an administrative capacity, she was only entitled to qualified immunity (if any immunity), and not absolute immunity.
- Finally, Evans argued that the court erred in not allowing her to amend her complaint before dismissing the suit.
- City argued that the district court judge was elected
- City argued the judge was the sole person who could control the activities of the clerk.
- The clerk was entitled to absolute judicial immunity and alternatively that she was entitled to qualified immunity.

The Eighth Circuit decision

- The Eighth Circuit reversed the trial court
- It held that the district court clerk could be a city employee.
- The court looked to the definition of the clerk's official functions under state law.
- The court decided that the clerk's decision could be administrative in nature, as opposed to a judicial decision.
- The court did not decide the qualified immunity issue.

Granda v. City of St. Louis

472 F.3d 565 (8th Cir. 2007)

IS A LOCAL DISTRICT COURT JUDGE A FINAL POLICYMAKER?

The facts and the trial court decision

- St. Louis mayor appointed a judge to the municipal court's truancy docket.
- A local ordinance made parents who knew of their children's truancy responsible.
- Granda's daughter was found truant and the judge ordered the daughter to attend school and for Granda to participate and communicate with the court's staff.
- The daughter didn't, and she and Granda were held in contempt and ordered to be detained in jail.
- Granda sued the judge and the city alleging a due process violation.
- She claimed the ordinance did not provide for incarceration and the city was liable because the city had a custom of illegally incarcerating the parents of truant children.
- Trial court held that the claim was barred by judicial immunity
- Granda failed to prove that her incarceration was the result of an unconstitutional policy or custom

Arguments on appeal

- Granda argued the city was liable because the municipal court judge was a final policymaker with respect to truancy matters.
- In the alternative, the mayor and "other judges" were the final policymakers who delegated their authority to the truancy judge.
- The city argued that it had no control over the judge.
- It had no authority to control the judge's decisions
- The judge's actions were not city policy decisions, but rather decisions made in the judge's judicial capacity.

The Eighth Circuit's decision

- The court noted that the city required the judges to send reports to the mayor with data about their dockets and to make recommendations to department heads about how better to enforce ordinances.
- But the court said, this fact did "not convert them into municipal policymakers."
- The court also didn't buy the argument that the mayor appointed the judge would make the city liable.
- Granda had also argued that the case was similar to a judge's decision to fire his law clerks
- The court didn't buy this, it said that that judge's decision was administrative in nature, and was not subject to meaningful review.
- The court found that "[t]he municipal court is a division of the state circuit court, and review of a judge's decisions is to be sought in that court[,]"
- It said that the judge's order "was a judicial decision made in a case that came before her on a court docket."

Why does this matter?

- When a judge's bad decisions are imputed to a city, it leads to a perverse result. The judge is immune from a lawsuit through the doctrine of judicial immunity, while the city absorbs all of the liability (if *Granda* is rejected as the rule).
- On the other side of the same coin, the judge loses his or her judicial immunity that is necessary for them to perform their functions if they are held liable as policymakers or agents of a city.
- *Granda* should be the rule, not only in the Eighth Circuit but across the board.
- The idea that a judge (especially an elected judge, like all non-federal judges in Arkansas) is anyone's employee, is absurd on its face.

Webb v. City of Maplewood

889 F.3d 483 (8th Cir. 2018)

- The City argued Eleventh Amendment immunity since "the real party in interest" is the municipal court, "an arm of the state entitled to sovereign immunity."
- The court stated that the real-party-in-interest test is used to determine whether suit is "in essence against the State."
- The court noted that the Supreme Court "has consistently refused to construe the Amendment to afford protection to political subdivisions such as counties and municipalities, even though such entities exercise a slice of state power."
- The City argued that the court is the arm of the state.
- The Eighth Circuit's response to this argument was that "if the municipal court rather than the City is responsible for the practices, the City will have a defense on the merits but not suit from immunity."

§ 1983 claims – administrative v. judicial decisions

- Two types of immunity in play
- § 1983 claims against the state are protected by Eleventh Amendment sovereign immunity.
- Judges also enjoy a separate doctrine of absolute judicial immunity for acts performed in their official capacities.
- Trend seems to be that judges or their judicial staff sued in their individual capacity for acts that are not in their official capacity of "judicial" in nature, don't get the same Eleventh Amendment sovereign immunity.
- All of this begs the question, is a municipal court or a city court part of the state for sovereign immunity purposes, or is it a part of the city and not protected?

Williams v. City of Sherwood

947 F.3d 1107 (8th Cir. 2020)

IS A LOCAL DISTRICT COURT JUDGE A MUNICIPAL EMPLOYEE?

The facts

- Williams had fines imposed on her and when she failed to appear at her hearings as part of the district court's fine payment review process, the district court judge issued a warrant for her and she was later arrested and jailed.
- Sherwood had established the Clerk position and named it as the Director of Sherwood's Hot Check Division and
- It also established Clerk positions in both the District Court and Sherwood's Hot Check Division.
- Judge's salary was determined by and paid by Sherwood.
- The court clerk and other court administrative staff operate administrative functions of, the District Court.
- All of the salaries and operational expenses of the Sherwood District Court were paid by Sherwood out of its general fund.

More facts

- Some people faced new hot check misdemeanor charges when they showed up for court
- Others appeared for "review hearings," which were hearings in which the court checked their progress in making payments on court costs, fines, and fees previously imposed by the Court.
- Judge determined guilt for the original charges and any new charges.
- Separately, a class action suit was filed against the city.
- Involved the same practices that Williams alleged in her lawsuit.
- Class action was settled, and Williams was released from her debt.
- As part of the settlement agreement, Sherwood agreed to be liable only to the extent that *it or its employees* exerted control over the practices that were allegedly unconstitutional.

The trial court decision

- Sherwood moved to dismiss suit, arguing that claims were barred by *Heck*.
- Williams argued that she was not challenging her conviction or sentence under the substantive law, she was challenging Sherwood's procedures through which she was fined and jailed.
- The trial court ultimately ruled for Sherwood and dismissed the suit,
- Court held that the claims were *Heck*-barred.

The plaintiff's argument on appeal

- Williams argued that the district court incorrectly applied *Heck*.
- She claimed that Sherwood had created its unconstitutional "hot-check" policy to engage in a litany of unconstitutional conduct,
- Because the district court judge had requested creation of a new administrative clerk position, the judge was acting in concert with the city.
- At oral argument, Williams distinguished her claims from those in *Granda*.
- First, she argued an official municipal policy, not a custom or practice like what was alleged in *Granda*
- Second, Williams claimed that the district court judge was an agent of the city, carrying out its official policy, rather than a final policymaker like the judge in *Granda* was alleged to be.

The city's argument

- Sherwood argued the district court was correct in applying *Heck*.
- In the alternative, the city argued that the judge was acting in his judicial capacity as a state court judge.
- City argued Williams was challenging the convictions and sentences for failing to pay fines, not just the procedures used to get there.
- The judge was not an agent, official or final policymaker, so the city could not be responsible for the judge's actions.
- The Sherwood district court, under Arkansas law, is an arm of the state courts, run by state court judges, with no control by Sherwood over their actions.

The Eighth Circuit decision

- The court noted that Williams's claims were different than those in *Granda*.
- However, it didn't matter, because the judge was still a judge, making judicial decisions.
- The court recognized that the city paid the judge's salary and funded the court where the judge sat, but also recognized the judge was elected, like all of the other judges in Arkansas.
- Ultimately, it was the lack of control that the court focused on.
- The court found that Williams relied on "conclusory assertions" and "vague allegations of a conspiracy" and held that those allegations could "not plausibly support a claim," and affirmed the dismissal of the case.

Justice Network v. Craighead County

931 F.3d 753 (8th Cir. 2019)

THE REDUX

The facts

- The Justice Network (TJN) is a private probation company in Craighead County.
- From 1997 to 2017 all misdemeanor offenders charged who required probation services were placed under TJN's supervision.
- In 2016, Judges Boling and Fowler were elected as District Judges.
- Judges implemented an "amnesty program"
- Allowed offenders who were delinquent on their payments to reset their payment plan.
- The judges also instituted a "jail credit" program that forgave the costs owed to the court and fees owed to TJN in lieu of time served in prison.
- TJN sued Judges Boling and Fowler; Craighead County; and several Cities.

The facts

- TJN had to stop all operations in Craighead County and was forced to terminate its 12 employees due to lost revenue
- TJN alleged that it suffered significant economic loss and would continue to sustain that loss in the future if the amnesty program were to continue.

The trial court decision

- The defendants moved to dismiss the complaint for failure to state a claim.
- The district court granted the motion based on Judges absolute Judicial Immunity.
- The district court concluded that modifying, suspending, or terminating the terms of probation are judicial acts.
- Second, the court granted Craighead County and the City defendants' motion to dismiss because state district court judges are state government officials and are not employees of the Cities.
- Finally, the court concluded that no supervisor or employee relationship exists between the judges and the City and County defendants.

The plaintiff's argument on appeal

- TJN appealed claiming the actions were administrative decisions not judicial acts
- TJN also claimed that Judges Boling and Fowler were authorized policymakers whose actions are attributable to Craighead County and the City Defendants

The defendants' argument

- The State has control over the district courts.
- The Constitution states that the Supreme Court, and not the cities of Arkansas "shall exercise general superintending control over all courts of the state …"
- The judges can't be municipal employees because effective January 1, 2012, all city or municipal courts transitioned to district courts.
- Judge Boling and Judge Fowler, who were elected in 2016, are not, and never have been "City Judges."
- They are "District Judges" established and controlled by the State.

The defendants' argument cont.

- Even if Judge Boling and Judge Fowler were employees of the Cities or the County, they would have to exercise final policymaking authority to bind the county or Cities.
- Judicial decisions are "not a final policy decision of a type creating municipal liability under § 1983. *Granda v. St. Louis.*

The Eighth Circuit decision: Judicial Immunity

- The judges reviewing of individual probationers' cases and amending of probation orders ***are related to the district court's authorized functions.***
- Judges Boling and Fowler did not act in a clear absence of their jurisdiction because Arkansas law states that state district courts have jurisdiction to modify or dismiss probation sentences.
- The Court affirmed the district court decision to dismiss because Judges Boling and Fowler acted within their judicial capacity

The Eighth Circuit decision: Municipal Defendants

- TJN argued that Judges Fowler and Boling were authorized policymakers.
- Statutes make clear that judgeships became "state district court judgeships" as of January 1, 2013, before the events of this case.
- Judges are "state" judges despite the cost-sharing requirements.
- Boling and Fowler are not employees of Craighead County or the City Defendants, the actions of the judges cannot be imputed to the Cities or County.

The upshot

- Modification of probation sentences by Judges Bowling and Fowler were judicial acts. Therefore, judicial immunity applies and the dismissal by the district court was proper.
- Arkansas law makes clear that District judges are employees of the State and not municipalities. Because Judge Bowling and Judge Fowler are not employees of either Craighead County or the Cities, the actions of the Judges cannot be imputed to the County or Cities.

City of Little Rock v. Nelson as next friend of Nelson

592 S.W.3d 633 (Ark. 2020)

THE ARKANSAS SUPREME COURT'S TAKE, OR, WHAT HAPPENS WHEN YOU DON'T FOLLOW THE RULES OF CIVIL PROCEDURE

The facts

- Nelson's son pleaded no-contest to speeding in traffic court in Little Rock District Court.
- Son was fined $115. under 3 month payment plan.
- Each month of payment, a $10 fee would be issued as well.
- The judge issued all three months of fees at once, converting a $115 fine into a $145 fine.
- Nelson tried to pay the $115 fine in full.
- Court cashier would not accept anything less than $145.
- Nelson filed an illegal exaction class action suit against Little Rock.
- She alleged due process violations under the Arkansas Civil Rights Act.

The trial court decision

- The court dismissed the illegal exaction claim and granted summary judgment.
- Due to a procedural mistake, the case ended up going to trial.
- Jury returned a verdict for Nelson, concluding that the installment process violated due process
- The jury found the City liable.
- The city appealed directly to the Arkansas Supreme Court.

Arguments on appeal

- Little Rock's argued that the district court judge was not an employee of Little Rock.
- As an alternative argument, the city argued that judicial immunity or respondeat superior protected it from the judge's actions.
- The city also argued that the practice did not violate due process because Nelson could have appealed the fine process to the circuit court de novo, or could have asked the judge for a refund of the $30 in fees.
- Little Rock argued that the judge was not a city employee because Amendment 80 to the Arkansas Constitution vested the judicial power of the state in the state government,
- Also, local courts had been transformed to state controlled district courts.

The Arkansas Supreme Court decision

- The Arkansas Supreme Court essentially reproduced the language from the Eighth Circuit's opinions in *Evans* and *Justice Network*,
- The Arkansas Supreme Court found that the transformation of the courts created two classes of courts
- One class was made up of the courts under the pilot program (state control)
- The second class composed of municipal courts (before legislature changed them to state courts).
- Little Rock District Court was a part of that second class at the time of the events Nelson alleged in her complaint
- The Court found that the LRDC was essentially part of Little Rock, the district court judge was an employee of the city, and the city could be liable for the judge's actions.
- For different, procedural, reasons, the Court dispensed with the city's alternative arguments.

Evans v. City of Helena-West Helena

912 F.3d 1145 (8th Cir. 2019)

WHEN IS A DISTRICT COURT JUDGE A MUNICIPAL EMPLOYEE?

Restatement of the facts

- Evans went to court after a traffic violation.
- She paid all fines and costs associated with the traffic violation.
- The clerk's office failed to document the payment.
- Clerk's office later requested a warrant for Evans' arrest for failure to make a payment.
- Evans was arrested and her vehicle was confiscated and towed.
- She was eventually released when it was discovered that she had actually paid all fines.
- Evans alleges she was arrested as a result of the City's failure to maintain proper records.

The secondary arguments

- Evans argued that the district court erred when it ruled that the district court clerk was a state employee.
- According to Evans, the clerk was a city employee because the clerk worked for the local district court, which at the time of the alleged events, was not a state district court but was still controlled by the city.
- HWH argued that Amend. 80 to the Arkansas Constitution established all district courts as state courts in the eyes of the law.
- The city had no authority to control the district court system outside of simply paying for its salaries and recouping some of the fine money collected.

The Eighth Circuit decision

- The court found that although the Phillips County District Court was a state court, the clerk was a municipal employee at the time of the events alleged in Evans's complaint.
- The court focused on the structure of the court system at the time of the events alleged and the fact that HWH set the district court clerk's salaries, hired the court's employees and paid by the city, out of the city's budget.

The upshot

- The Eighth Circuit was willing to split hairs about timelines, finding that because the Phillips County District Court was not part of the initial pilot program, the legislature must have intended it to remain a municipal court.
- The problem with the court's decision though is that it begs the question: When is a judge a judge and when is he or her an agent of the city? There's no clear answer in this decision and it certainly won't help another circuit (or even the Eighth circuit) looking at another state's laws and how it treats local district courts.
- Going forward, this case is unlikely to mean much at least for Arkansas, as all of the local district courts, along with the state district courts, are now state trial courts (with limited jurisdiction).
- However, the *Williams* decision further confuses the issue especially in light of the Arkansas Supreme Court's opinion on the issue.

The takeaway

- While the Arkansas Supreme Court was willing to impute liability to a city for a local district court judge's actions for purposes of a due process violation, the Eighth Circuit was unwilling to do the same for purposes of § 1983 at least in *Williams*.
- And you can see how they got there. It makes sense to decide these cases based on municipal control of a state court judge, rather than when the judge's court at issue "technically" became a state court in the code. A judge is a judge is a judge.
- Where the state of the law on this issue goes from here, we don't know. For now, it's safe to assume that, under the Arkansas Supreme Court's rule, if a local district court judge violates a city resident's constitutional rights, the city ***may*** be held liable if the city was not yet a state district court when the violation occurred (if it happened between 2007 and 2017 in a city that wasn't part of the original 2007 pilot program).