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FEATURE:

Sixth Circuit Holds Deputies Had Probable Cause for the Arrest of Commissioner During Meeting and Grants Qualified Immunity for County Officials and Officers

***Frenchko v. Monroe,* No. 24-3116 (6th Cir. November 26, 2025)**

Niki Frenchko, an elected commissioner on the Trumbull County Board of Commissioners, filed a civil rights lawsuit after her arrest at a board meeting. Frenchko had campaigned on exposing corruption and inefficiencies among her fellow commissioners. During a June 2022 meeting, she accused the Trumbull County Jail and Sheriff's Department of mistreating inmates. She read a letter from the mother of an inmate who accused the Sheriff's department of being deliberately indifferent to his medical needs, which angered her fellow commissioners and the County Sheriff, Paul Monroe.

At a subsequent meeting, Commission Chair Frank Fuda had a letter from Monroe read into the record by the clerk, despite the issue not being on the agenda. This letter denied the accusations and accused Frenchko of failing to verify the claims she read into the record with the Sheriff's office. During the reading of Monroe's letter, Frenchko became disruptive, talking over the clerk reading it and even mocking her as she read, which angered the other commissioners and meeting attendees. Despite warnings from the other commissioners, Frenchko continued to disrupt the reading of the letter, resulting in her arrest by Officers Wix and Ross for disrupting a lawful meeting under Ohio law. Celebratory and derogatory text exchanges among county officials followed the arrest.

Frenchko asserted that her arrest violated her civil rights and sought partial summary judgment, while the defendants asserted immunity and sought summary judgment on all counts. Frenchko's complaint included fourteen counts against various defendants, including claims under 42 U.S.C. § 1983 for Fourth Amendment unlawful seizure and First Amendment retaliatory arrest, as well as state law claims for false arrest and civil conspiracy. The district court granted partial summary judgment to Frenchko on her federal claims and denied the defendants' motions for summary judgment and statutory immunity. The defendants appealed, challenging the denial of qualified immunity and statutory immunity for the state law claims.

Legal Questions:

1. Whether the arrest of Frenchko by officers Wix and Ross violated her Fourth Amendment rights against unreasonable search and seizure, specifically whether the officers had probable cause to arrest her for disrupting a lawful meeting.
2. Whether the officers were entitled to qualified immunity on both the Fourth Amendment claims and the First Amendment retaliation claims.
3. Whether there was enough evidence to support Frenchko's claim that the defendants conspired to have her arrested.

Holdings:

The Sixth Circuit held that the deputies had probable cause to arrest Frenchko for disrupting the meeting, so the defendants were entitled to qualified immunity on the Fourth Amendment claim. The court also concluded that only the presence of probable cause generally precluded the First Amendment retaliatory arrest claim, but remanded the case to the district court to consider whether any exceptions applied. For the state-law claims, the court affirmed the denial of statutory immunity, finding genuine issues of material fact as to whether the defendants acted in bad faith by allegedly conspiring to arrest the commissioner in retaliation for her speech.

Analysis:

Fourth Amendment

The court began by acknowledging that probable cause must be present for an arrest, lest the Fourth Amendment be violated. But even if probable cause did not exist, if an officer reasonably believed probable cause existed, officers will still be entitled to qualified immunity. The court relied on video and officers' observations that Frenchko repeatedly interrupted the clerk, spoke over her despite the chair's point of order and gaveling, antagonized the visibly shaken clerk, ignored directives to yield, and then continued speaking off-agenda, supporting a reasonable belief that she obstructed or interfered with the meeting's due conduct. The court analogized the facts to a previous 6th Circuit case in Burton v. City of Detroit to reach this conclusion.

The court also rejected the argument that the arrest was based on speech content, explaining that while content-based arrests lack probable cause, the manner of speech can provide probable cause. Here, the arrest was for conduct, not content. It also rejected Frenchko's argument that the officers lacked probable cause to arrest her at the direction of the other commissioners. Even if this were true, it would not have negated the officer's probable cause.

First Amendment

For this claim, the court once again noted that Frenchko would need to prove the absence of probable cause to prevail. The court required personal involvement for § 1983 liability and concluded Fuda, Cantalamessa, and Monroe were not personally involved in the arrest: their conduct constituted, at most, vocal bystanding without authority or action to facilitate the arrest; Monroe neither directed nor approved the arrest or charges. The court also declined to ground liability for these defendants on a § 1983 conspiracy theory, finding that any such argument was forfeited on appeal and not examined by the District Court, and further noting the lack of clearly established law imposing personal-capacity First Amendment liability on non-arresting officials based on the limited actions shown here. As to Wix and Ross (and official-capacity claims), the court reiterated that the arrest was supported by probable cause, which ordinarily defeats a retaliatory arrest claim, but recognized two exceptions: the Nieves "similarly situated" comparator exception and the Lozman "official policy motivated by retaliation" exception. Because the district court had not reached

whether either exception applied, the court remanded for the district court to decide in the first instance whether Frenchko produced objective evidence satisfying the Nieves exception or evidence of an official policy of retaliation under Lozman sufficient to overcome the no-probable-cause rule.

Frenchko v. Monroe

SHORT SUMMARIES:

9th Circuit – Police Action – Excessive Force

12-year-old Joseph Hawatmeh was shot and killed by officers from the Henderson Police Department (HPD) during an attempt to rescue him from a hostage situation. The perpetrator had already killed Joseph's mother and housekeeper and severely wounded his sister when officers surrounded the vehicle in which the gunman was keeping Joseph. After an officer shot the gunman, officers fired additional shots, which killed Joseph. A lawsuit was then filed, alleging violations of the Fourth and Fourteenth Amendments, as well as a Monell claim, among other claims. The District Court dismissed these federal claims, determining that the officers did not seize Joseph for Fourth Amendment purposes and were entitled to qualified immunity.

The Ninth Circuit Court of Appeals affirmed the district court's dismissal of the claims. The court found that the officers' actions did not violate Joseph's Fourth Amendment rights as they were attempting to rescue him from a hostage situation, and there was no intent to restrain him. The court also concluded that the officers did not violate Joseph's Father's Fourteenth Amendment rights because legitimate law-enforcement objectives justified their actions in a rapidly evolving situation. The Monell claim failed for lack of a plausible constitutional violation.

Hawatmeh v. City of Henderson

1st Circuit - Police Action – Heck Bar

In 2018, Guistina Aprileo requested police assistance at her home following a dispute between her adult children. Officers Jason Bacis and Thalia Castro initially responded and de-escalated the situation. When Officer Richard Ward arrived, Aprileo informed him that his presence was no longer needed. Ward alleged that Aprileo pushed him as he exited her home, leading to her arrest after a struggle, during which Ward used a "forced arm bar" maneuver, resulting in Aprileo's elbow being fractured. Aprileo was charged with resisting arrest, disorderly conduct, and assault and battery on a police officer, but she did not enter a plea. Instead, she agreed to pretrial probation under Mass. Gen. Laws ch. 276, § 87, which led to the dismissal of charges after successful completion. Aprileo then filed an excessive force claim against the city.

The central legal question was whether the Heck v. Humphrey doctrine, which bars § 1983 claims that impugn a valid criminal judgment, applied to Aprileo's case. The court determined that Heck was inapplicable because Aprileo was neither convicted nor sentenced, and the charges were dismissed without a guilty plea or admission of wrongdoing. The court emphasized that the Heck doctrine requires an underlying conviction or sentence, which was absent in Aprileo's case. The court noted that the pretrial probation agreement under Section 87 did not equate to a conviction or require any admission of guilt. The court also cited similar decisions from other federal appellate courts holding that the Heck doctrine does not apply in the absence of an underlying conviction. The court concluded that applying Heck to bar Aprileo's § 1983 claims would not serve the doctrine's purposes

of avoiding conflicting resolutions or preventing collateral attacks on state convictions. Consequently, the court affirmed the district court's decision allowing Aprileo's § 1983 claims to proceed.

Aprileo v. Clapprood

6th Circuit – Zoning – RLUIPA

Daniel Grand, an Orthodox Jew living in University Heights, Ohio, sought to facilitate Sabbath prayer by inviting neighbors to his home for prayer sessions. After a neighbor forwarded his email invitation, the City's Law Director sent Grand a cease-and-desist letter asserting his house could not be used as a "place of religious assembly" and warning of possible building code citations. Grand then applied for a Special Use Permit to use his recreation room "for periodic religious gatherings," noting tables and chairs; in U-1 zones, houses of worship are allowed only by a special use permit issued by the Planning Commission, with appeals to the City Council, and zoning-interpretation questions go to the Board of Zoning Appeals. After a public hearing but before the board rendered a decision, Grand withdrew his application, stating that he did not wish to operate a house of worship as defined in the ordinance, and the Commission took no further action. Instead, Grand sued the City and officials, asserting claims under RLUIPA, the FACE Act, the First, Fourth, and Fourteenth Amendments, the Ohio Constitution, and state law; on cross-motions, the district court dismissed his RLUIPA, Ohio Constitution, First Amendment, and Fourteenth Amendment claims as unripe, rejected his FACE Act, Fourth Amendment, and several state-law claims on the merits, and declined supplemental jurisdiction over his Ohio Public Records Act claim.

The Sixth Circuit affirmed, holding most claims were unripe due to lack of finality because neither the Planning Commission, City Council, nor Board of Zoning Appeals had issued a final decision on whether the ordinance applied or on Grand's eligibility for a permit, a posture caused by Grand's withdrawal; the cease-and-desist letter did not constitute a final decision by the authorized zoning bodies. The court rejected the futility and hardship arguments, finding that the City had not "dug in its heels," that local processes remained available, that the letter was not an enforceable action imposing hardship, and that any chilling effect was not an objective harm, particularly as Grand held a minyan (quorum for Jewish prayer services) after the meetings. The court acknowledged facial challenges are generally ripe. Still, it held that Grand forfeited them at summary judgment and, independently, they failed under United States v. Salerno, 481 U.S. 739, 745 (1987), because the ordinance could be lawfully applied in some circumstances, such as by barring a large worship hall in a residential area. On the merits, the court affirmed dismissal of the Fourth Amendment claim because the home inspection done after the council meeting was consented to by Grand's wife, who had apparent or actual authority.

Daniel Grand v. City of University Heights, Ohio

6th Circuit – Police Action – Excessive Force

Ashly Romero called 911 about a domestic disturbance in her driveway involving her husband, Stephen Romero; dispatch reported conflicting information. Ashly said Stephen was unarmed and had not threatened her with a weapon. At the same time, another caller claimed there was a shooting, and a third later said no one was shot, with uncertainty whether officers received this clarification. Officers arrived with weapons drawn and encountered Stephen standing outside the open driver-side door with Ashly in the driver's seat; Moore ordered Stephen to show his hands and get on the ground, and Stephen, holding two phones, raised his hands and then slowly placed the

phones on the ground. The officers again ordered Stephen to the ground; he got on his knees with hands up, was told to get face down, then slowly moved his left hand and lifted his shirt to reveal a holstered gun in his waistband on his right hip, after which he reached for the gun with his right hand as his left hand was raised, and the officers fired. Stephen cried out and fell face down to his stomach and elbows; while on the ground he said, “I got you … I got you” and again reached his right hand toward his waist, prompting the officers to resume firing, during which Stephen slid the gun several feet away; the entire encounter lasted under 40 seconds and was captured on body-worn cameras. Stephen died in the driveway.

Ashly, as personal representative of Stephen’s estate, sued under 42 U.S.C. § 1983, alleging excessive force, Fourth Amendment violations, and Monell liability for failure to train. The district court granted dismissal for all claims, holding the officers’ use of deadly force did not violate clearly established rights and dismissing the failure-to-intervene and Monell claims. Ashly appealed, and the appellate court held Ashly plausibly alleged a Fourth Amendment violation at least as to the second volley of shots: by then, Stephen was wounded, on his stomach, no longer a threat to Ashly, largely compliant, and made nonthreatening statements. Comparing these facts with Bletz v. Gribble, 641 F.3d 743 (6th Cir. 2011), and Lee v. Russ, 33 F.4th 860 (6th Cir. 2022), the court found that the situation was de-escalating and distinguished cases granting qualified immunity to officers involved in encounters with advancing or aggressive suspects.

Romero v. City of Lansing

7th Circuit – Land Use – Zoning

The Plaintiff, owner of a seasonal microbrewery and pub in Minocqua that sells craft beer, merchandise, and political merchandise, obtained an administrative review permit in March 2022 that permitted indoor retail sales but prohibited outdoor operations. Yet it conducted outdoor retail sales in summer 2022 in violation of the permit. Plaintiff applied in November 2022 for a conditional use permit (CUP) for an outdoor beer garden; the initial application proposed a driveway partly on town land, which the town refused, leading the Committee to deny the CUP. Plaintiff did not appeal; instead, Plaintiff submitted a revised CUP while continuing to violate the earlier-issued permit by operating outdoors in summer 2023 and continuing to publicly criticize officials. The Committee revoked the administrative review permit for retail operations due to violations but tabled the revised beer garden CUP. The CUP was later granted on the condition that the brewery meet all permit conditions for its outdoor operations, which it did not. After several rounds of permit applications, denials, suspensions, and revocations, the plaintiff's most recent permit application for an outdoor beer garden was denied by the county committee, which cited the plaintiff's ongoing and willful violations of permit conditions and their declared intent to continue such violations. Plaintiff then filed in District Court, asserting that the permit denials and revocations constituted retaliation for protected political speech, in violation of the First Amendment, and sought a preliminary injunction, which was denied.

On appeal, the court found that, while the Plaintiff had engaged in protected political speech and had suffered adverse permit actions, the Plaintiff failed to prove that the two were related. Plaintiff provided no evidence that similarly situated businesses were allowed to continue operations despite comparable violations or promised future violations; arguments about restrictive/selective conditions failed because the conditions largely tracked plaintiffs’ own proposal and were not challenged at application, and plaintiffs identified no similarly situated businesses that issued permits without similar conditions. Thus, there was no retaliatory motive.

Minocqua Brewing Company LLC v. Hess

10th Circuit – Jail Administration

Kongchi Justin Thao died by suicide while being temporarily held at a county jail facility in Oklahoma. After being placed in a cell used for inmates who have caused trouble, Thao repeatedly begged officers to kill him, said he was ready to die, asked to be shot, said he would commit suicide, and stated he would rather die. Officers in the hallway heard interactions, and one unidentified officer warned, "shut up or you won't go," while another joked to a different inmate about Thao's behavior. When an officer opened the cell to remove Thao for transport, he found Thao unconscious, hanging by the towel tied to the door handle. He later told a paramedic that Thao had been yelling and "was fine," while acknowledging no knowledge of prior history. Thao died from his injuries. Thao's estate sued the county jail and individual defendants under 42 U.S.C. § 1983 in Oklahoma state court for excessive force, failure to intervene, and deliberate indifference in failing to provide adequate training/supervision to prevent Thao's suicide; the county removed to federal court, the Estate dismissed the individual defendants, and two claims remained against the county: deliberate indifference for failure to train to prevent suicide, and an excessive force claim from a previous interaction Thao had with the officers. The District Court granted summary judgement to the county on both claims.

On appeal, the court upheld the excessive force claim but reversed the deliberate indifference claim. The court found that Thao's estate pleaded genuine disputes of material fact about whether officers had adequate training to detect suicide risks in inmates like Thao. Evidence such as an officer saying Thao "was fine" after he had been pleading with the officer to kill him could support a finding of insufficient training. Although one officer conducted a training on mental health in prisons, it was unclear how many officers attended, as attendance was not mandatory. The court found that this was insufficient to constitute adequate training.

Thao v. Grady County Criminal Justice Authority

11th Circuit – Qualified Immunity

Police approached a man for whom they had a warrant to arrest. The man was in his truck when the police arrived. The officer asked the man to exit the truck, but he did not comply. The officer then threatened to break the truck's window to get the individual out. The man responded to this threat by starting the truck and putting it into gear. The officer, positioned tightly between the truck and a house, feared for his life and shot the driver, killing him. From these facts suit was filed.

The lower court denied qualified immunity believing the man's wife, also subject that evening to an arrest warrant, offered facts that at least raised some questions about whether the officer should have been sufficiently afraid to justify deadly force. On appeal in a 2-1 decision the panel reversed saying: "…This rule covers situations in which (1) an officer believed his life was in danger because a suspect used a vehicle as a weapon against the officer or (2) the suspect's use of the vehicle otherwise presented an immediate threat of serious physical harm." The estate's argument ignores that, under the circumstances, Settle needed not move the car for his actions to be reasonably perceived as threatening."

Settle v. Collier

11th Circuit – First Amendment – Abortion Protests – Clear Zone

Faced with complaints about safety at an abortion clinic, and "Seeking to protect the safety of those driving into and out of the parking lot of a local abortion clinic, the City of Clearwater, Florida, created a "vehicular safety zone." The buffer zone applied to most pedestrians, forbidding entrance to a 38-foot stretch of public sidewalk (28 feet of which cross the clinic's driveway) during business hours." Several individuals objected and sued, asserting that their First Amendment rights were abridged.

The lower court put safety over those rights and denied a preliminary injunction. On appeal, the panel reversed 2-1. "Florida Preborn has provided "uncontradicted testimony" that the buffer zone has effectively stifled sidewalk counselors' ability to distribute literature to patients entering and exiting the clinic." On, then, to the application of McCullen's narrow-tailoring analysis. "We think it clear that the Ordinance burdens substantially more speech—namely, the sidewalk counselors' leafletting activities—than is necessary to achieve the government's asserted interest in promoting vehicular safety."

From the dissent: "Even assuming there are some unconstitutional aspects to the City's ordinance, which there do not appear to be, there are still constitutional applications of the law that undercut FPR's facial challenge. It is undisputed that the City has an interest in "providing safe and unobstructed access to [the] clinic, as it would for any driveway." Both precedent and the majority agree such an interest exists and is substantial. See Lucero, 121 F.3d at 607 (recognizing a "significant" government interest in "promoting the free flow of traffic on public streets")." "In the district court, the City proffered evidence that the Ordinance achieved their substantial and lawful interests in safe access to the clinic. It introduced the testimony of multiple police officers who described how FPR volunteers and protestors were obstructing access to the clinic and creating public disturbances, which is why law enforcement championed the Ordinance's passage."

Florida Preborn Rescue v. Clearwater

3rd Circuit – Police Chase – Liability for injury to Bystander

From the Court's decision "Every day, police officers make snap judgments to chase dangerously fleeing suspects. During the chase, regrettably, bystanders sometimes get hurt. Yet officers are not constitutionally liable for those injuries unless their judgments are not just mistaken but egregious, shocking the conscience. Here, Philadelphia police officers witnessed drug deals. The dealer took off, running a red light and driving fast and dangerously; the officers made a split-second decision to chase him. That chase stopped when the dealer crashed into another car, killing an innocent bystander."…" When a private person (like Ellison) harms another private person (like Martinez), police are seldom liable under the Fourteenth Amendment. To be liable for creating a danger that violated someone's constitutional rights, police must act so culpably that their behavior "shocks the conscience." Sauers v. Borough of Nesquehoning, 905 F.3d 711, 717 (3d Cir. 2018)."

Otero v. Kane