International Municipal Lawyers Association
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IMLA NEWS
Issue 9 – May 18, 2026

FEATURE:

4th Circuit Holds Town Not Subject to Monell Liability After Officer Coerced Sex from Female Victim

***Mullen v. Sunset Beach,* No. 25-1526 (4th Cir. May 7th 2026)**

Shannon Mullen sued the Town of Sunset Beach under Section 1983, alleging Fourth and Fourteenth Amendment violations based on sexual assaults by Officer Isaac Krammes. Of note to our membership in particular, this included a Monell violation for the city's hiring practices. The department hired Krammes as a patrol officer in October 2019 after BLET (Basic Law Enforcement Training) completion and state certification. Pre-employment checks included contacts with prior employers and military supervisors, a social media check, medical and drug screenings, a psychological exam, and a CVSA (Computerized Voice Stress Analysis). One former employer said Krammes' temperament needed close monitoring, but offered no specifics. The psychological exam found him suitable but flagged high risk for integrity problems and past marital infidelity. The CVSA showed no deception and deemed him a good hire, while noting failed BLET sections, a declined hire after a polygraph, and a dismissed 2017 domestic violence complaint.

Mullen and Krammes first encountered each other in early 2020 during a traffic stop where he learned she lacked a valid license. She alleged that between March and June 2020 he entered her home on duty about four times, exposed himself, coerced sex acts, and obtained intercourse at least once for leniency. During an October 2020 drug-related search at Mullen's residence, the assistant chief observed Mullen's distress around Krammes and heard her say, "Oh, I got stuff on you." When Krammes approached his supervisor and asked (as all definitely-not-guilty people do) whether Mullen had told him anything, his supervisor replied that she had. Krammes then responded that "none of it was true". Krammes resigned in December 2020. No complaints about Krammes were received during his employment, though he was disciplined for speeding, incomplete reports, jokes and slurs, and harassment about a female employee's weight. In February 2022, Mullen first reported that the 2020 sex acts occurred on duty and were coerced, prompting an internal investigation.

The department had no specific written sexual misconduct policy but had a rule requiring attentiveness on duty and prohibiting conduct discrediting the department. In his deposition, Krammes admitted that on-duty sexual activity was against policy and that he received no sexual misconduct training at the department. Chief Klamar knew of three 2017 incidents of on-duty sexual conduct by officers, all consensual, and recommended termination in two cases, though resignations occurred.

Legal Question(s):

1. Whether Sunset Beach could be held liable under 42 U.S.C. § 1983 because its police department lacked policies specifically prohibiting sexual misconduct by officers on duty.
2. Whether Sunset Beach's alleged failure to adequately train and supervise officers regarding sexual misconduct constituted deliberate indifference, causing the violation of Mullen's rights.

Holdings:

The court held Mullen failed to show deliberate indifference because policymakers lacked notice of a substantial risk that officers would commit sexual assaults, and there was no evidence of a pattern of similar constitutional violations or other facts placing policymakers on notice, and nothing showed the Chief knew or should have known of Krammes' misconduct while it occurred.

Analysis:

The court began by defining municipal liability under Monell, which requires a direct causal link between a municipal policy or omission and the constitutional injury. Liability for omissions, such as failure to adopt policies or train, requires deliberate indifference and has a demanding standard requiring notice of a likely constitutional injury. Isolated incidents are insufficient, and a pattern of similar violations is generally required to put policymakers on notice. In this case, the prior incidents involved consensual on-duty sex and did not resemble the alleged coercive sexual assault at issue here. Therefore, according to the court, those incidents did not place policymakers on notice of a substantial risk of officer sexual assault requiring policy or training changes. Even assuming one incident from 2017 involved coercion, a single incident would not establish a pattern or make training needs so obvious as to show deliberate indifference.

The record did not show that Chief Klamar knew or should have known about Krammes' misconduct while it occurred. Parking near Mullen's home was common for traffic monitoring, and there was no evidence of knowledge of non-police activity at the time. Additionally, both Mullen and Krammes testified that no one in the department knew of the sexual assault and harassment at the time. The first potential notice arose during the October 2020 search, and Krammes resigned two months later. Accordingly, no reasonable jury could find Sunset Beach acted with deliberate indifference through its policies, training, or supervision, and summary judgment on the Section 1983 claim was proper.

On negligent supervision and retention, the court found no indications requiring additional supervision to prevent sexual assault and noted Krammes resigned soon after the first potential notice. For negligent hiring, North Carolina law requires an employer to have notice of the employee's incompetence or propensity for similar misconduct that caused the injury. Krammes' file showed general temperament concerns, integrity risks, past infidelity, a dismissed domestic violence complaint, and an unexplained declined hire after a polygraph. The record lacked evidence of a history suggesting a propensity for his specific act here of sexual assault, so notice could not be imputed to Sunset Beach. The court therefore affirmed summary judgment on negligent hiring, supervision, and retention. Because no negligence on the part of Sunset Beach was shown. An

interesting case that showcases that even when there are some bad facts for a city attorney to work with, they can still use the high bar a Monell claim demands to pick apart a plaintiff's case.

Mullen vs. Sunset Beach

SHORT SUMMARIES:

7th Circuit - Property Rights - Towing Lists

We've had a few recent cases involving towing companies and their relationships with local governments. This case offers another example. Most know that local governments need to have vehicles removed from roads for many reasons, abandonment, accident, or breakdown. To facilitate doing so, local governments turn to private businesses engaged in towing to remove the vehicles. Because the towing company can charge the vehicle owner, not the government, for the tow, the business remains highly competitive even where there are price controls and other protections against gouging. Generally, the local government, as here, attempts to spread the work around by creating a list of companies it calls upon on a rotating basis.

A company performing tows in this county received a large number of complaints. So, the county removed it from the tow list which meant it would not be offered an opportunity to tow vehicles at the direction of the county. The company sued. The lower court considered the company's claim of due process violation and concluded that the company did not have a property right to be on the list. On appeal, the panel affirmed. Critical to the analysis, the county's policy provided that it did not create contractual rights and provided "the Dispatch Center may withdraw the offer to any and all participants and/or applicants at any time for any appropriate reason." The court concluded that the phrase "any appropriate reason" fell far short of "cause" or "just cause" as interpreted in the employment context. It noted: "Removal "at any time for any appropriate reason" does not impose any meaningful limit on Wood County's discretion. (We do not consider here the possibility that the county might act for a constitutionally suspect reason, such as a business owner's race, religion, or perhaps political affiliation.) The Minimum Standards policy did not guarantee Tire Town a spot on the list in the first place, nor did the policy meaningfully restrict the circumstances in which Tire Town or any other towing company could be removed."
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Tire Town Auto LLC vs. Wood County

6th Circuit - First Amendment - Injunctions

A fellow believed a recent election was similarly infected by a "thumb on the scales" during ballot counting. This fellow was overheard saying about the election supervisor, "Hang Joe for Treason." Apparently, this statement was enough to trigger a prosecution under Michigan's terrorist threat law which "It defines an "[a]ct of terrorism" as "a willful and deliberate act" that "would be a violent felony" under Michigan law, that "the person knows or has reason to know is dangerous," and that "is intended to intimidate or coerce a civilian population or influence or affect the conduct of government . . . through intimidation or coercion." Id. § 750.543b(a)(i)–(iii). Violations are punishable by a maximum 20 years of imprisonment and $20,000 fine. Id. § 750.543m(3)." An arrest warrant was issued, and prosecution ensued.

As the case meandered through the criminal justice system, Michigan's intermediate court concluded that the statute had some constitutional problems. So, believing the proverbial "sword of Damocles"

no longer hung over his head, the fellow brought suit in federal court, for various remedies. But alas, the Michigan Supreme Court disagreed with the intermediate court and affirmed the statute's continued validity. Believing himself to be in danger of renewed prosecution (which apparently proved true), the fellow sought an injunction against the state's prosecution for violating the act and for future prosecution. The lower court denied the injunction. On appeal, the panel seemed pretty clear that a challenge to the law would likely succeed, but that an injunction ought not to issue, because the panel had faith in the Michigan courts to resolve claims of First Amendment violations. There's more about federal intervention into state prosecutions for those interested.

Hess v. Oakland Cnty., Mich.

9th Circuit - Deadly Force

The 9th Circuit held in a 2-1 decision that the lower court's application of qualified immunity to that use of force to be appropriate as not veering from any clearly established law. From the opinion: "Fuhr threatened the mother of his infant daughter, fired his handgun in a public park, and then grabbed his daughter and fled on foot. He dodged authorities for over thirty minutes, and the search grew to encompass a helicopter and Special Weapons and Tactics (“SWAT”) officers, including Zech. Despite warnings to stop, Fuhr continued to evade the officers while holding the child. Eventually, Zech and another SWAT officer encountered Fuhr in a residential alley. As Fuhr appeared from behind a bush and proceeded toward the officers with the baby in his arms, Zech fired, killing Fuhr."

The dissent related facts which suggested the force to be totally unnecessary: " The undisputed facts make clear that when he was shot, Fuhr presented no immediate threat to either the officers or his daughter. To use Officer Zech’s words, he was 'cornered' and could not escape. Even if he had had a firearm, he could not have used it to harm the officers. He was walking slowly, holding his daughter tightly against his chest. He was never warned that deadly force would be used, and the officer who yelled for him to stop testified that he was not given adequate time to comply before being killed. I respectfully but strongly dissent."

Fuhr vs. Seattle

7th Circuit - Jails - Deliberate Indifference

This case may be of value for its dicta, rather than its holding. A pro se inmate held for more than 2 years in a local jail filed complaints about the level of mental health services provided by the jail and its contractor. The inmate was a veteran and also complained of being foreclosed from veteran mental health benefits. Being pro se did not help him at all, although he had representation on appeal. The result of his inadequate pleading led to the dismissal of his claims, and the panel affirmed. The panel noted that his claims were "troubling". It wrote: "Lee’s allegations are troubling: in particular, his descriptions of potential gaps in the Jail’s mental-health resources give us pause. His medical conditions, a traumatic brain injury and post-traumatic stress disorder, are serious enough to mandate some level of care under the Fourteenth Amendment. And the County’s attempt to insulate itself from liability by claiming that it lacked notice of any deficient care provided by its private contractor is a non-starter." Another interesting discussion involved the inmates' complaints that the jail staff shut the plumbing to the toilets down throughout the whole cell block, requiring inmates to live in their own waste. The county responded that it did so because the inmates were

flooding their cells by blocking off the toilets. The court mused that, on different record evidence, the county could have implemented a system for more discrete shutoffs, which might have merit.

Lee vs. Milwaukee County