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State Action: Officer Who Uses Service Revolver While on Duty to Collect Personal Debt is not Acting Under Color of Law

Morris v. City of Detroit, No. 19-1386 (6th Cir. Oct. 16, 2019).

A police officer who was on duty and used her service revolver after entering an acquaintance's home to collect a personal debt was not acting under color of law, because the purpose of the interaction did not involve her official capacity.

While on duty Jennifer Adams (Adams), an officer with the Detroit (City) police department, went to the residence of Keri-Yakei Morris (Morris) and Calvin Galloway (Galloway) seeking repayment of a $300 personal debt Morris owed. According to Morris, Adams placed her foot in the door so Morris could not close it, then proceeded inside and initiated a physical altercation by pointing her finger in Morris' face. During the physical altercation, Morris sprayed Adams with mace and in response Adams discharged her firearm. The bullet did not hit Morris. During the physical conflict, Galloway went downstairs and upon his descent Adams threatened she would physically harm him. Galloway did not make it downstairs, but he was grazed by the bullet Adams discharged during the altercation.

The police department suspended Adams during their internal investigation. The department determined Adams that violated several department policies and procedures. At the time of the incident, Adams was not wearing her uniform but did have her badge and a waistband holster displaying her department-issued firearm. According to the department, she was technically on duty because although she clocked out early, she was scheduled to work until later that evening.

Plaintiffs brought Fourteenth and Fourth Amendment claims, alleging wrongful arrest and excessive force by Adams, the City and the police department. They also argued that the City should be held liable because it failed to properly train and supervise Adams. Total damages sought were $1,000,000 plus legal fees.

The district court granted summary judgment to the defendants.

The Sixth Circuit affirmed. When determining whether a person acted under color of state law, "[t]he fact that a police officer is on or off duty, or in or out of uniform is not controlling. 'It is the nature of the act performed, not the clothing of the actor or even the status of being on duty, or off duty, which determines whether the officer has acted under color of law.'" According to the Circuti, Adams was not acting under color of law at the time of the incident, but instead acting in her personal capacity. Although Adams was on duty at the time of the incident, she was not acting under color of law because she did not purport to conduct police-related business nor did she attempt to use her status as an officer during the altercation. The fact that Adams used her service weapon was not enough to find that she was acting under color of law.

That determination doomed plaintiffs' claims against the City—for liability to attach, Adams would have to be a state actor operating under color of law. Given that she was operating as a private person, the City had no liability.

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