

# Federal appellate court rules police officers not obligated to investigate each detainee's claim of innocence

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The U.S. Court of Appeals for the Sixth Circuit recently issued a published opinion, in *Seales v Zberkot*, \_\_\_ F.3d \_\_\_ (6th Cir. 2020), 2020 WL 2463047, issued May 13, 2020, overturning a \$3.5 million dollar jury verdict against a City of Detroit police officer in a wrongful arrest case.

The arrest, which had previously been held valid by the appellate court in an interlocutory immunity appeal, involved a case of mistaken identity. The record was voluminous and included transcripts of an initial trial that ended in a mistrial, a second jury trial and numerous motion hearings.

During the second trial, the jury found the officer liable for the plaintiff's continued detention claim under the U.S. Constitution for false arrest, false imprisonment and gross negligence under state law. The plaintiff's theory was that the arrestee protested his innocence repeatedly, but the officer failed to investigate his claim of mistaken identity,

The extensive appellate briefing sought judgment in favor of the officer on all claims, and in the alternative, a new trial because of the wrongful exclusion of evidence and the failure to adequately instruct the jury on proximate cause.

The appellate court's published opinion squarely holds that officers are not obligated to investigate each claim of innocence during the short period that they detain suspects or to perform an error-free investigation of mistaken identity claims. The appellate court emphasized that the ultimate determination of such claims of innocence is placed in the hands of the judge and the jury.

According to lead appellate counsel and Plunkett Cooney partner Mary Massaron, the decision will be useful in defending against claims of failure to investigate and claims in which one officer relies on another officer for information or for performing parts of the process of an arrest and booking of suspects. In cases of malicious prosecution or Fourth Amendment continued detention claims, the court's analysis will be very helpful. Massaron was assisted with briefing in the case by Plunkett Cooney partner Josephine DeLorenzo.

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The appellate court also rejected the gross negligence claim on the basis that the officer's conduct was protected by Michigan's Government Tort Liability Act, because the plaintiff could not simply allege that the officer could have done more and satisfy the standard for showing gross negligence. The appellate court held that an officer's decision not to follow up when faced with protestations of innocence does not rise to the level of gross negligence. In addition, the appellate court interpreted the ruling in *Ray v Swaggert* to require a showing that the conduct is the "most immediate, efficient, and direct cause of injury" and applied it to find no fact question here.

This decision can be helpful in showing that *Ray* does not mean proximate cause is a fact question in every gross negligence case. The ruling is particularly useful in countering some of the more plaintiff-oriented decisions from the Sixth Circuit on state governmental immunity.

The City's Corporation Counsel Lawrence Garcia said, "The recent opinion makes good sense out of governmental immunity and proximate cause doctrines which are meant to keep litigation on track, and the Sixth Circuit's reversal restores balance to a case which had gone off the rails."