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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of April – 2024 - ALTERNATIVE

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LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

Month of April - 2024 - ALTERNATIVE

Andrew Davis, et al., v. The Village of Maywood, 2023 IL App (1st) 211373, December 29, 2023. Dismissal of Action (Law Enforcement Liability) - - Reversed and Remanded.

THE CASE: An individual became violent when dealing with his brother and his father. The police were called, and they determined that the individual had threatened the brother and father. However, the Officers did not arrest the individual. They simply took him into custody, transported him to a nearby hospital, and left him there. After being released from the hospital, the individual returned home and killed his father and injured his brother. Could the Officers be held liable?

FACTS: A father and two brothers lived in a house in the Village of Maywood. One of the brothers, Jackson, became aggressive and violent towards his brother and father. The police were called. The Officers decided not to arrest Jackson. Instead, they transported him to a local hospital and left him there. Jackson was quickly released from the hospital, returned to his home, and killed his father and injured his brother. The Plaintiffs in this case, the Estate of the Father, and the injured brother, sued the Officers and their Village employer. *The following are the allegations of the Plaintiffs.* On July 11, while in Maywood, Jackson struck a friend over the head with a glass bottle and was arrested for battery. After being released from custody on a personal recognizance bond by the Maywood police, Jackson returned to his residence, and, over the course of the next day, was “aggressive and violent” towards his brother and his father. “At the culmination of this [hours long] rampage,” Jackson “swung a crutch recklessly at his brother.” The brother dialed 911 and reported that “he thought that [Jackson] was going to kill someone in the home,” Several Officers and an ambulance responded to the scene. The Officers then interviewed the three men together, which was “against proper [police] protocol and training.” Fearful of infuriating Jackson, the brother initially denied making the 911 call. But when the Officers were about to leave, he admitted to being the caller. The brother and the father also told the police that Jackson was “dangerous,” and one of the officers “commented that he knew [Jackson] and that he knew [him] to be dangerous.”

The Officers did not arrest Jackson, “though they had probable cause to do so, but instead [they] merely transported him to the hospital and left him there.” “At no time during this incident did any Officers ask the brother or the father whether they wanted to sign a criminal complaint against Jackson.” Additionally, the officers did not (1) ask whether either man wanted an emergency order of protection, (2) explain to them how to obtain such an order, (3) transport or offer to transport them to obtain an emergency order, (4) accompany them while they retrieved necessary personal belongings and possessions from the residence, (5) take either man to a place of safety, (6) offer medical treatment, (7) offer to preserve evidence of the abuse, or (8) summarize the relief that was available to them pursuant to the Illinois Domestic Violence Act.

When Jackson was released from the hospital “later that night,” he went back to the house. He found his brother asleep and choked him into unconsciousness. As the brother came to, a “confrontation” ensued in which the father intervened. Jackson then pushed his father down a set of stairs, causing his death. Less than 12 hours had elapsed since Andrew asked the 911 operator to send help to the Davis residence because Jackson “was going to kill someone in the home.” The Plaintiff’s sued the Officers and their Village. The circuit court dismissed the case. This appeal followed.

ARGUMENTS: On appeal, the Plaintiffs argued that the circuit court erred in dismissing the case. **[NOTE: To state claim for damages under Domestic Violence Act, the plaintiff must allege that (1) he or she is person in need of protection under Act, (2) statutory law enforcement duties owed to him or her were breached, (3) duties were breached by willful and wanton acts or omissions of law enforcement officers, and (4) misconduct proximately caused plaintiff’s injuries.** 750 Ill. Comp. Stat. Ann. 60/304(a), 60/304(b), 60/305.

APPELLATE COURT FINDINGS: The Appellate Court agreed with the arguments of the Plaintiffs and found that:

- 1 perpetrator's father and brother were abused by family member, and thus were persons in need of protection within meaning of Domestic Violence Act;
- 2 plaintiffs sufficiently alleged that officers breached duty under Act by failing to arrest perpetrator;
- 3 plaintiffs sufficiently alleged that officers violated Act when they exposed survivor and victim to subsequent retaliatory, escalating violence when they interviewed perpetrator together with survivor and victim;
- 4 plaintiffs sufficiently alleged that officers breached enumerated duties under Act when they failed to help survivor and victim to either temporarily leave residence or obtain an order of protection; and
- 5 trial court erred in finding that officers responding to report of domestic violence did not act willfully and wantonly in taking perpetrator to hospital, rather than arresting him.

ISSUE #1: Were the father and son in this case abused by a family member, and thus were persons in need of protection within meaning of Domestic Violence Act? **(Yes).**

CONCLUSIONS AND REASONING: The appellate court found that the father and son in this case were “abused by a family member” and, thus, were persons in need of protection within meaning of Domestic Violence Act, as an element of a claim against the Village for damages under the Act for willful and wanton acts or omissions. **WHY:** *The son and the administrator of the father's estate alleged that, after the son's brother struck a friend over the head with glass bottle, was arrested and held until he posted bond, he engaged in an hours-long pattern of aggressive and violent behavior toward the occupants of the house, and the son called a 911 operator to seek help because the brother's conduct had escalated to the point that he “was going to kill someone in the home.”* 750 Ill. Comp. Stat. Ann. 60/201(a).

ISSUE #2: Did the Plaintiffs properly allege that the Officers violated their duty under the Domestic Violence Act by failing to help the domestic violence victims? **(Yes).**

CONCLUSIONS AND REASONING: The Court held that the Plaintiffs sufficiently alleged that the Officers breached their enumerated duties under the Domestic Violence Act when they failed to help the survivor and the victim to either temporarily leave their residence or obtain an order of protection against the perpetrator, who was the survivor's brother and the victim's son, after taking the perpetrator to the hospital. **WHY:** *Helping the victim and the survivor to either temporarily leave the residence or obtain an order of protection could well have prevented the perpetrator's aggravated domestic abuse and murder of the victim after he left the hospital unimpeded by law enforcement.* 750 Ill. Comp. Stat. Ann. 60/304(a).

ISSUE #3: Did the Plaintiffs properly allege that the Officers violated their duty under the Domestic Violence Act by interviewing the individuals together and thereby escalating the violence? **(Yes).**

CONCLUSIONS AND REASONING: The Court held that the Plaintiffs properly alleged that the Officers exposed the survivor and the victim to subsequent retaliatory, escalating violence by Jackson when they interviewed Jackson, together with the survivor and the victim, in violation of the Domestic Violence Act. **WHY:** *The survivor and the administrator alleged that the group interview was a failure to uphold one of the Act's stated purposes of treating domestic violence as a “serious crime,” that the officers wantonly exacerbated the abusive situation by making the survivor admit to having called the police, and that the group interview was against all proper police protocol.* 750 Ill. Comp. Stat. Ann. 60/102(1), 60/304(a).

ISSUE #4: Did the circuit court err by declaring that the conduct of the Officers, in merely transporting Jackson to a nearby hospital instead of placing him under arrest, did not constitute willful and wanton misconduct? **(Yes).**

CONCLUSIONS AND REASONING: The Court held that the trial court erred in finding that the Officers responding to a report of domestic violence did not act willfully and wantonly in taking the domestic violence suspect to hospital, rather than arresting him, thus entitling the Village to immunity under the Domestic Violence Act, in this action brought by the Plaintiffs. **WHY:** *After deeming the complaint to be factually deficient, the trial court found that the hospital was “more equipped than the jail to deal with someone who may be dangerous,” despite the fact that the complaint disclosed no facts indicating why the officers decided to take the suspect to the hospital, and the trial court had no factual grounds for determining that the hospital was better equipped than a jail to deal with the suspect.* 750 Ill. Comp. Stat. Ann. 60/304(a), 60/304(b).

ISSUE #5: Must a jury decide whether these Officers were liable for their conduct in this case? **(Yes).**

CONCLUSIONS AND REASONING: The issue of whether the Village police officers’ conduct in allegedly breaching their duty under the Domestic Violence Act to immediately use all reasonable means to prevent further abuse, neglect, or exploitation proximately caused the injuries to the domestic abuse survivor and the victim’s death was a question of fact that could not be determined on motion to dismiss. **WHY:** *Like the question of whether the Officers’ conduct was willful and wanton, whether the Officers’ conduct proximately caused injuries to the Davis family was generally a question that should be reserved for the finder of fact.* 750 Ill. Comp. Stat. Ann. 60/304(a), 60/304(b).

RESULT: The appellate court agreed with the arguments of Plaintiffs, reversed the judgment of the circuit court, and remanded this case back to that court so that the case could proceed. **[SIMILAR CASE: See the training case of the Month of February - 2024 (Taylor v. City of Chicago, 2024 IL App (1st) 221232, January 5, 2024.)**

QUIZ QUESTIONS FOR THE MONTH OF APRIL – 2024 - ALTERNATIVE

Andrew Davis, et al., v. The Village of Maywood, 2023 IL App (1st) 211373, December 29, 2023.

1. Pursuant to Illinois law, in order to claim the benefits of the Illinois Domestic Violence Act, the person claiming that protection must be able to prove that he or she was a person in need of protection under that Act.
 - a. True.
 - b. False.

2. The Plaintiffs in this case claimed that the deceased father and the injured brother were persons in need of protection under the Illinois Domestic Violence Act. Did the appellate court agree with that argument?
 - a. Yes.
 - b. No.

3. The plaintiffs in this case alleged that the Officers acted improperly when they interviewed all three occupants of the house together. Did the appellate court concluded that this allegation was sufficient to allow a jury to decide whether the Officers should be held liable?
 - a. Yes.
 - b. No.

4. The Plaintiffs in this case argued that the trial court erred in dismissing their case. The appellate court agreed with this argument.
 - a. True.
 - b. False.

QUIZ QUESTIONS AND ANSWERS FOR THE MONTH OF APRIL – 2024 - ALTERNATIVE

Andrew Davis, et al., v. The Village of Maywood, 2023 IL App (1st) 211373, December 29, 2023.

1. Pursuant to Illinois law, in order to claim the benefits of the Illinois Domestic Violence Act, the person claiming that protection must be able to prove that he or she was a person in need of protection under that Act.
 - a. True. As the appellate court declared, “to state a claim for damages under the Act, the plaintiff must allege that (1) he or she is a person in need of protection under the Act, (2) the statutory law enforcement duties owed to him or her were breached, (3) the duties were breached by the willful and wanton acts or omissions of law enforcement officers, and (4) the misconduct proximately caused the plaintiff’s injuries. Moore v. Green, 219 Ill. 2d 470, (2006)
2. The Plaintiffs in this case claimed that the deceased father and the injured brother were persons in need of protection under the Illinois Domestic Violence Act. Did the appellate court agree with that argument?
 - a. Yes. The appellate court held that the: “Father and son were abused by a family member and, thus, were persons in need of protection within meaning of Domestic Violence Act, as an element of a claim against Village for damages under Act for willful and wanton acts or omissions.”
3. The plaintiffs in this case alleged that the Officers acted improperly when they interviewed all three occupants of the house together. Did the appellate court concluded that this allegation was sufficient to allow a jury to decide whether the Officers should be held liable?
 - a. Yes. The Court declared that the: “(d)omestic abuse survivor and the administrator of domestic violence victim's estate sufficiently alleged that the village police officers exposed them to subsequent retaliatory, escalating violence by the survivor's brother when they interviewed the brother, the alleged abuser, together with survivor and victim, in violation of Domestic Violence Act.”
4. The Plaintiffs in this case argued that the trial court erred in dismissing their case. The appellate court agreed with this argument.
 - a. True. The Court held that the “(i)ssue of whether the village police officers’ conduct in allegedly breaching their duty under Domestic Violence Act to immediately use all reasonable means to prevent further abuse, neglect, or exploitation proximately caused injuries to the domestic abuse survivor and victim was a question of fact that could not be determined on motion to dismiss.” 750 Ill. Comp. Stat. Ann. 60/304(a), 60/304(b).