

Southfield attorney wins in appeals court

Court of Appeals says man can sue Taylor, police for brutality

BY TIM RICHARD
STAFF WRITER

A state Court of Appeals panel praised Southfield attorney Alexander Kelin for "well-pleaded allegations" in his effort to try a police brutality case against the city of Taylor and two officers.

The state's second highest court reversed, 3-0, Wayne Circuit Judge James R. Chylinski's dismissal of a civil suit by Kelin's client, Clarence Stamps Jr., whose knee was fractured during an arrest.

Chylinski was told to analyze further a deal in which the city

agreed not to prosecute Stamps for trespassing at his girlfriend's home in exchange for his agreement not to sue the city for civil damages. Stamps signed the deal but sued anyway. Chylinski granted the city's motion for summary judgment in the city's favor.

"(R)elease-dismissal agreements should be analyzed on a case-by-case basis," said Judge Richard Allen Griffin, writing for the appellate panel that included Judges Harold Hood and John Foley.

Summoned in 1993 by Stamps' girlfriend, Taylor officers Tim-

othy Culp and Rory Johnson talked Stamps into leaving her home and then arrested him "after a loud and profane protest," plaintiff (Stamps) alleges that as he was being forced into a police vehicle, one of the officers struck (his) lower thigh, causing plaintiff's knee to fracture," Griffin wrote.

The appeals court cited a Michigan precedent from 1976 that was changed by a 1987 U.S. Supreme Court ruling.

The Michigan ruling against the city of Galesburg invalidated release-dismissal deals.

Among the reasons was "a desire on the part of the prosecuting authority to extract police officers from possible liability offers an undeniable temptation to conceal or exaggerate the charges against the defendant to exaggerate his (prosecutor and police) bargaining position."

The U.S. Supreme Court, however, called for case-by-case analysis.

Before enforcing a release-dismissal deal, a trial court should determine "(1) the agreement

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Richard Allen Griffin
Court of Appeals judge

was voluntary; (2) there was no evidence of prosecutorial misconduct; and (3) enforcement of the agreement will not adversely affect relevant public interests," said Griffin, quoting other cases.

The trial court, in assessing the voluntariness of the deal, should consider "(1) the sophistication of the criminal defendant; (2) whether the signor of the release was in custody at the

time of signing; (3) whether the signor was represented by counsel; (4) whether the signor had ample time to consider the agreement before signing it; (5) whether the signor expressed any unwillingness; and (6) whether the release is clear on its face."

Griffin's panel told Chylinski to look at the issue of "prosecutorial overreaching" by having the prosecutor show its action arose from concern for the public interest "rather than a concern for the private interests of government officials."

"We emphasize that strong policy reasons mitigate against the enforcement of release-dismissal agreements where the released claims involved meritorious claims of police brutality," Griffin wrote.

Attorney Kelin could not be reached by press time for an update on the status of the case in circuit court.

Sheriff

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"I worry about his health," said Matt Hogan, the Democrat who is challenging Nichols in the Nov. 6 election. "The sheriff's job is not merely an administrative post. The sheriff must be able to stand in front of his department and take command during a crisis situation."

Hogan, 45, a career trooper with the Michigan State Police, is commander of the Brighton Post. Hogan said he personally and professionally respects Nichols and has pledged to campaign on issues, rather than personalities.

Several of Nichols' primary opponents claimed his health and vitality — not his age — are legitimate concerns.

When contacted Tuesday about Nichols' absence, the sheriff's office said he is in "fine health." Through his secretary, Nichols attributed the no-shows to scheduling conflicts.

Nichols Tuesday was endorsed by the Oakland County Deputy Sheriff's Association which also supported him four years ago. The association also endorsed L. Brooks Patterson, a Republican running for Oakland County executive, and Steven Kaplan, a Democrat running for prosecutor.

Another no-show at Saturday's VFW forum was County Executive L. Brooks Patterson. The executive has candidly said he sometimes doesn't attend candidate forums because doing so gives his political opponent stature.

Edward Hamilton, the Democrat running against Patterson, did attend Saturday's VFW forum and reiterated his contention that county government is bloated and in need of a high-tech Democrat to streamline the bureaucracy.

Hamilton said he felt he had made a favorable impression and, possibly, won a few votes. "I think it was a Republican audience," he said. "But a few people said they'd vote for me."

"They told a lot of Bill Clinton jokes," he said.

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