



The Seventh Circuit holds that police officers do not violate the Constitution by not preventing unlawful conduct of a private party



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In *Adams v. City of Peoria*, 2018 WL 1286124 (7th Cir. Mar. 13, 2018), the United States Court of Appeals for the Seventh Circuit was asked to review a District Court's Order granting summary judgment in the Defendants' favor. In this case, Plaintiff Natasha Adams sued the City of Peoria, Illinois, and some of its police officers under 42 U.S.C. § 1983 for violating her Fourth and Fourteenth Amendment rights when the Defendant police officers failed to stop Nicole Sanchez from removing Adams' personal property from a house that Adams believed was abandoned. The relevant facts are as follows.

Adams moved into an empty house in Peoria in July 2014. About two months later, Nicole Sanchez came to the house and told Adams that Sanchez owned it and wanted Adams to leave. Adams refused to vacate without an eviction notice, and so, Sanchez summoned Officer Matt Legaspi, who was Sanchez's friend and who is the main Defendant in the case, to assist her. Officer Legaspi told Adams that he knew that Sanchez owned the house and that he would return in about a week to ensure that Adams had vacated the premises. Officer Legaspi did not accept Adams' claim (for which she said she had supporting papers) that she lawfully occupied the house. At some point, Adams claims that Officer Legaspi told Sanchez that she could "do whatever she wanted with" Adams' possessions.

One week later, Sanchez returned with moving vehicles and with friends to help her move Adams' possessions out of the house. When the moving crew arrived, Adams tried unsuccessfully to convince Sanchez that she could stay in the house. Sanchez told Adams that she could take time that day to remove her possessions on her own and that Sanchez would even help pay for storage. But, Adams insisted on staying put. So, Sanchez and her friends started loading Adams' possessions in their vehicles.

Adams tried to stop them by calling the police. Adams spoke to a lieutenant who sent an officer to the house. This officer, whom Adams did not sue and was not Officer Legaspi, "was the only one there" when Sanchez was removing the property. However, the officer did not stop Sanchez. Instead, Adams was arrested for trespassing. Soon after the arrest, Sanchez and her friends drove away with the last of Adams' possessions. Adams believes that Sanchez kept or destroyed her property. Thereafter, Adams filed a complaint with the Peoria police department, but another lieutenant told her that the police officers acted properly.

Accordingly, Adams filed suit under 42 U.S.C. § 1983 alleging that the Peoria police officers named as Defendants violated her Fourth Amendment rights and her Due Process rights when they failed or refused to stop Sanchez from removing her personal property from the house. After the District Court denied a motion to dismiss, discovery followed, and the Defendants moved for summary judgment.

The principal issue before the District Court on summary judgment was whether Officer Legaspi, the two lieutenants, and the City of Peoria violated Adams' Constitutional rights when Sanchez seized her possessions and they did nothing to stop her. After considering the parties' arguments, the District Court entered summary judgment for the Defendants. In so doing, the District Court decided that Adams' claim against the City and the

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officers “sounds in due process,” but the claim failed because Adams had failed to show that the Defendants were present when Sanchez took her property. In any case, the District Court concluded that Adams had a meaningful post-deprivation remedy under Illinois law. Finally, the District Court also ruled that the City was not liable solely for employing the officers. Thereafter, Adams filed a timely notice of appeal.

The Seventh Circuit began its consideration of Adams’ appeal by agreeing with Adams that the District Court failed to recognize that, in her Complaint, she raised a claim that Officer Legaspi violated her Fourth Amendment rights by allowing Sanchez to take her property. In her Complaint, Adams alleged that Officer Legaspi “allowed Ms. Sanchez to seize our possessions.” The Seventh Circuit noted that this is the language of Fourth Amendment cases, and therefore, the Seventh Circuit explained that, in reviewing the entry of summary judgment, it would consider Adams’ Fourth Amendment claim.

The Seventh Circuit then opined that the principal issue on appeal was whether the record contained a sufficient basis for a factfinder to conclude that Officer Legaspi violated the Fourth Amendment by enabling Sanchez to seize and to remove Adams’ possessions. The Seventh Circuit explained that an officer violates the Fourth Amendment by personally seizing property unreasonably. *Illinois v. McArthur*, 531 U.S. 326, 330-31 (2001). The Seventh Circuit agreed with the District Court that a personal, unreasonable seizure by the Defendant officers did not occur in this case.

The Seventh Circuit further opined that an officer also violates the Fourth Amendment when a private party seizes a person’s possessions if the officer enables that seizure despite knowing that it violates the law. *Soldal v. Cook County*, 506 U.S. 56, 60 n. 6 (1992). But, an officer who simply fails to stop a legal violation by a private party does not offend the Constitution. *Town of Castle Rock, Colorado v. Gonzales*, 545 U.S. 748 (2005).

In this case, the Seventh Circuit agreed with the District Court that Adams had failed to supply sufficient evidence with which to persuade a reasonable trier of fact that Officer Legaspi knew of an impending legal violation, let alone enabled it. Specifically, the Seventh Circuit noted that there was no evidence in the record to suggest that Officer Legaspi was present when Sanchez removed Adams’ property. To the contrary, Adams swore that the officer dispatched to the house after she called the police—whom she has not sued—“was the only one there.”

And, the Seventh Circuit determined that the statement that Adams attributed to Officer Legaspi—that Sanchez could “do whatever she wanted” with Adams’ property—was also insufficient to impute liability. According to the Seventh Circuit, that statement did not suggest that Officer Legaspi knew that Sanchez would take and keep Adams’ possessions unlawfully, much less that he helped her do so.

Finally, the Seventh Circuit held that the District Court’s rulings on Adams’ remaining claims were also correct. Adams argued that, by not stopping Sanchez from taking her property, Officer Legaspi violated her Due Process rights. But, Adams failed to identify any state or local policy that required Officer Legaspi to let Sanchez take Adams’ property. If, as Adams contended, Officer Legaspi let Sanchez take the property, he did so on his own. Because Illinois offers an adequate post-deprivation remedy—conversion—for the taken property, the Seventh Circuit agreed with the District Court that no violation of Adams’ Due Process rights occurred.

As for the other Defendants, the Seventh Circuit explained that the City of Peoria cannot be held liable under § 1983 merely for employing the officers who allegedly violated Adams’ constitutional rights. Accordingly, the Seventh Circuit affirmed the District Court’s Order entering summary judgment in the Defendants’ favor because the Defendants did not violate Adams’ Constitutional rights because the police do not violate the Constitution by not preventing unlawful conduct of a private party.