



Qualified Immunity Protected A Fire Investigator From Civil Liability From Allegedly Botching An Arson Investigation



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In *Caminata v. County of Wexford*, 664 Fed Appx. 496 (6th Cir. Nov. 17, 2016), the sole issue presented on appeal to the United States Court of Appeals for the Sixth Circuit was whether Defendant/Appellee Michigan State Police Sergeant Michael Jenkinson, a certified fire investigator, was entitled to protection from Plaintiff/Appellant Victor Caminata's civil rights suit against him based upon the doctrine of qualified immunity for Jenkinson's actions during an arson investigation that contributed to Caminata's conviction and four year imprisonment. The Sixth Circuit held that, because Caminata failed to show that Jenkinson violated Caminata's Constitutional rights, the United States District Court for the Western District of Michigan correctly entered summary judgment in Jenkinson's favor. The relevant facts are as follows.

On March 2, 2008, Caminata was at his girlfriend's house when a fire broke out. Caminata claimed that he went outside, saw fire escaping from the home's masonry-block chimney, climbed the roof, and used a chimney fire suppressant in an attempt to extinguish the fire. The fire caused the roof to collapse and destroyed the home. The masonry-block chimney vented heat from a wood stove. This chimney was enclosed by the wood-framed walls of the house. In addition to the masonry-block chimney, the home was partially heated by a boiler system that vented through a metal chimney pipe, which was enclosed by a wood chimney chase.

Sergeant Brian Rood of the Wexford County Sheriff's Department conducted the first inspection of the fire scene on the day of the fire. Rood photographed the house, and his pictures revealed that the masonry-block chimney's thimble hole was not covered by any part of the wood frame. On March 4, 2008, Defendant/Appellant Michael Jenkinson, a Michigan State Police Sergeant and certified fire investigator, inspected the scene. Jenkinson did not speak to Rood before investigating. Contrary to Rood's findings, Jenkinson, after reconstructing the masonry-block chimney's since-collapsed wood frame ("the board reconstruction"), determined that this chimney's thimble hole had been covered by a wood board. Jenkinson reported that the wood board that he believed had covered the thimble hole was not fire-damaged, and therefore, he concluded that a chimney fire was an unlikely cause of the house fire. Jenkinson did not make a specific finding as to the origin of the fire but reported that human involvement was possible. Jenkinson took 115 photographs during this initial investigation. Jenkinson also spoke with Fire Chief Phil Mizga who expressed doubts about Caminata's claim that this was a chimney fire.

Jenkinson, along with James Raad, an insurance company investigator, returned to the fire scene two weeks later after a Michigan State Police Trooper received an anonymous tip that Caminata had set the fire. During this investigation, Caminata's girlfriend's step-father informed Jenkinson that he believed that Caminata had intentionally set the fire. Jenkinson stated in his report that, although Caminata claimed that he lit the wood stove approximately five hours before the fire started, it would be "absolutely impossible" for the wood to have been burning for that long based on the wood's appearance. Finally, Jenkinson reported that there were two isolated pockets of burning that were consistent with a "heavy, direct flame source having been applied" and

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that these were suggestive of multiple failed attempts at ignition consistent with an arson fire. Jenkinson took an additional twenty photographs during this second investigation.

The following day, Jenkinson learned that faulty wiring had been ruled out as a potential cause of the fire. On March 26, 2008, Jenkinson filed his supplemental incident report, which concluded that the fire was caused by arson. Caminata was arrested and charged with arson of a dwelling house under Michigan law. Caminata was tried, convicted, and sentenced to serve nine to forty years in prison. The Michigan Court of Appeals affirmed the conviction, and the Michigan Supreme Court denied leave to appeal.

In 2013, the University of Michigan Innocence Clinic secured a new trial for Caminata on the ground that Jenkinson and Raad's investigations were inadequate. The Innocence Clinic alleged that Jenkinson's board reconstruction was done improperly and that he incorrectly analyzed the isolated pockets of burning that he observed during his follow-up inspection. In response, the Wexford County Prosecutor's Office asked Bureau of Alcohol, Tobacco, Firearms, and Explosives Agent Michael Marquardt, a certified fire instructor, to review the investigation. After reviewing the case file and interviewing Jenkinson, Marquardt concluded that there was sufficient data to support classifying the fire as arson.

The night before the evidentiary hearing on Caminata's motion for relief from judgment, Assistant Attorney General Lauryl Scott discovered two developed photographs and a number of undeveloped photographs of the fire scene. The next day, Scott met with Marquardt and Rood, and Rood revealed for the first time that he thought Jenkinson's board reconstruction was incorrect and that Rood might have taken more photographs than were in the case file. Rood testified during his deposition that he believed that about two rolls of film that he took during his inspection were not produced to the defense. After the trial court denied Scott's request for an adjournment to allow time for Marquardt to analyze the newly found photographs, Scott stipulated that Caminata's motion for relief from judgment be granted.

On February 28, 2014, Caminata brought this action under 42 U.S.C. § 1983 alleging Fourth and Fourteenth Amendment violations against Jenkinson, Rood, Trent Taylor (the officer in charge of Caminata's case), and the County of Wexford. The United States District Court for the Western District of Michigan granted Jenkinson's motion for summary judgment, concluding that his actions were at most negligent and, thus, protected by the doctrine of qualified immunity. The District Court denied the summary judgment motions of Rood, Taylor, and the County of Wexford, and they subsequently entered into settlement agreements with Caminata. Caminata timely appealed the District Court's summary judgment order in Jenkinson's favor.

On appeal, Caminata argued that Jenkinson was not entitled to qualified immunity for his alleged violations of the Fourth and Fourteenth Amendments. Caminata contended that Jenkinson deliberately fabricated the evidence at the fire scene in order to rule out the possibility of a chimney fire. Specifically, Caminata asserted that Jenkinson's board reconstruction and conclusions as to the failed attempts at ignition were incorrect. Caminata further argued that Jenkinson knowingly withheld his fabrications from the prosecution. As a result, Caminata stated that the doctrine of qualified immunity did not shield Jenkinson from liability in this suit.

The Sixth Circuit began its analysis of Caminata's arguments by explaining that qualified immunity shields a government official from liability unless his conduct violated clearly established statutory or constitutional rights of which a reasonable person would have known. Qualified immunity gives ample room for mistaken judgments by protecting all but the plainly incompetent or those who knowingly violate the law. Here, to determine whether qualified immunity applied, the Sixth Circuit noted that it must decide whether Jenkinson's actions violated Caminata's Constitutional rights and whether the rights at issue were clearly established at the time of the violation.

As for Caminata's Fourth Amendment claims (i.e., fabrication of evidence and malicious prosecution), the Sixth Circuit opined that, in order to succeed on a Fourth Amendment malicious prosecution claim, Caminata had to prove the following: (1) a criminal prosecution was initiated against him and Jenkinson made, influenced, or participated in the decision to prosecute; (2) there was no probable cause for the criminal prosecution; (3) as a consequence of the legal proceeding, he suffered a deprivation of liberty apart from the initial seizure; and (4) the criminal proceeding was resolved in his favor. Although actual malice is not required to succeed on a malicious prosecution claim, a defendant must have made deliberate or reckless falsehoods; mere negligence will not create liability.

In this case, the Sixth Circuit determined that, although Jenkinson's investigation and conclusions may have been flawed, Caminata produced no evidence to suggest that Jenkinson's report contained deliberate omissions or reckless falsehoods. In other words, although Caminata had cast doubt on the soundness of Jenkinson's conclusions, Caminata had failed to show that Jenkinson acted intentionally or recklessly in his investigation. As most, Caminata demonstrated that Jenkinson was negligent in his investigation and conclusion, but negligence is insufficient to violate the Fourth Amendment. Because Caminata had failed to show that Jenkinson violated his Fourth Amendment rights, Jenkinson was immune from Caminata's Fourth Amendment claim based upon the doctrine of qualified immunity.

Likewise, the Sixth Circuit agreed with the District Court that Jenkinson was protected by the doctrine of qualified immunity on Caminata's Fourteenth Amendment claim (i.e., withholding exculpatory evidence). The Sixth Circuit agreed with Caminata that, like prosecutors, police officers must turn over potentially exculpatory evidence if it is apparent to the officer that the evidence could form the basis for exonerating the criminal defendant. Because the Sixth Circuit concluded that Caminata failed to show that Jenkinson knowingly fabricated his reports, his Fourteenth Amendment claim turned on whether, after conducting his investigation, Jenkinson knew that his reports were false and subsequently withheld this information from the prosecutor.

After considering Caminata's arguments, the Sixth Circuit agreed with the District Court that there was no evidentiary basis to find that Jenkinson withheld evidence or that Jenkinson knew the exculpatory evidence of any evidence withheld from Caminata. Accordingly, the Sixth Circuit affirmed the District Court's finding that Jenkinson was immune from Caminata's Fourth and Fourteenth Amendment claims against him based upon the doctrine of qualified immunity.