

Federal Judgment in Favor of Officer Sued in Individual Capacity Does Not Bar Plaintiff's Separate State Suit Against County and Sheriff in Official Capacity

Clem v. Pinal County

Arizona Court of Appeals | May 10, 2021

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Jamie Clem's son died from morphine intoxication while incarcerated in the Pinal County jail. Clem first filed a state court lawsuit against Pinal County and the Pinal County Sheriff in his official capacity alleging state law claims of negligence and gross negligence. Clem then filed a separate lawsuit in federal court against several detention officers, solely in their individual capacities, alleging federal claims under 42 U.S.C. § 1983. The second suit alleged substantially the same facts as the complaint in the first lawsuit.

Several months later, Clem amended her federal complaint to name only a single officer, still in his individual capacity. The officer moved for summary judgment, which the district court granted. Shortly thereafter, the County and Sheriff moved for summary judgment in plaintiff's state case, arguing that the federal judgment in favor of the detention officer required dismissal of the state claim against the County and the Sheriff in his official capacity. The superior court granted the motion, finding the federal judgment against plaintiff precluded the state claim on both claim preclusion and issue preclusion grounds. Plaintiff appealed.

The Arizona court of appeals reversed the claim preclusion ruling, but affirmed the issue preclusion ruling in part. Claim preclusion did not apply, said the court, because a government employee named solely in his or her individual capacity is not in privity with the government; thus, dismissal of the employee does not automatically require dismissal of the employer. The court reasoned that (a) a government officers named in his or her individual capacity "must satisfy any judgment against him or her personally," and (b) individual officers "may assert immunities and defenses not available to the government." And because here the federal judgment in favor of the officer was based on qualified immunity – a defense not available to the County or Sheriff – the doctrine of claim preclusion did not preclude the state lawsuit even though the two suits were based on "substantially the same facts."

Issue preclusion—preclusion of an issue actually litigated in the federal case—could apply, however, because that doctrine generally does not require strict mutuality between parties. During the federal court litigation, the district court ruled that Clem failed to prove a causal link between her son's death and the federal defendant officer's conduct. This ruling was "fatal to Clem's negligence claim against the County and the Sheriff to the extent that claim rests on [the federal defendant officer's] conduct." But because the federal case had not actually litigated Clem's allegations of liability based on the actions of other employees, issue preclusion did not prevent Clem from continuing to pursue her state lawsuit against the County and Sheriff on that basis.

Both parties have thirty days to seek Supreme Court review. We will continue to follow this case and report any updates.

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