



Section 1983: Litigating Constitutional Rights

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Objectives

1. Introduce §1983 & key cases
2. Elements
3. Available relief
4. Typical defenses
5. Unique aspects
6. Attorney's fees

42 U.S.C. §1983

- ▶ Civil Rights Act of 1871, known as the Ku Klux Klan Act
- ▶ Reconstruction Legislation

Monroe v. Pape (1961)

1. Police officers can be held liable under § 1983 for conducting unreasonable searches & seizures in violation of the 4th Amendment.
2. Municipality cannot be held liable under § 1983 [later overruled]

Elements of Section 1983

- ▶ The defendant, a “person,”
- ▶ Acted under color of state law
- ▶ To deprive the plaintiff of a right secured by the federal constitution or laws.
- ▶ Scierter
- ▶ Proximate cause

“Person”

- ▶ A natural person as well as local governmental units are “persons.”
Monell v. City of New York
Department of Social Services (1978)
- ▶ May sue the State for injunctive or declaratory relief

Color of State Law

- ▶ Δ used power by virtue of state law
 - ▶ Statutes
 - ▶ Ordinances
 - ▶ Regulations
 - ▶ Customs
- ▶ Not private persons or businesses

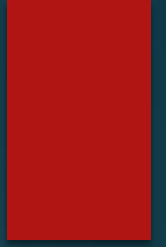
Right Secured by Constitution & Laws

- ▶ No new rights created
- ▶ Look to case law interpreting Constitution

Scienter

- ▶ Equal protection—Purposeful discrimination
- ▶ Due process—Abuse of governmental power
- ▶ 8th Amendment—Deliberate indifference
- ▶ Other standards in high-speed chase or prison security

Rib Den Case



RIB DEN CASE

Causation

- ▶ **Cause-in fact:** But for causation; Δ 's actions played substantial part in bringing about injury
- ▶ **Legal cause:** Reasonable foreseeability

3 Types of Damages

- ▶ Compensatory damages
- ▶ Nominal damages
- ▶ Punitive damages
 - ▶ [Municipalities immune]

Damages Imposed on Two Types of Defendants

- ▶ Natural persons--individual capacity
- ▶ Local governments
- ▶ NOT IMPOSED ON
 - ▶ The State or
 - ▶ Natural persons--official capacity

Equitable Relief

- ▶ Injunctive and declaratory relief
- ▶ Can impose on municipalities

Concurrent Jurisdiction

- ▶ π may bring suit in either state or federal court
- ▶ Δ in state court may remove to federal court

Municipal Liability

- ▶ Unconstitutional policy statement, ordinance, regulation, or decision adopted & promulgated by body's officers Monell v. City of New York Department of Social Services
- ▶ Inadequate training policy City of Canton v. Harris

Action Against Federal Agents

- ▶ Bivens v. Six Unknown Named Agents creates implied cause of action for persons whose constitutional rights were violated by federal agents.
- ▶ If π has another remedy, Bivens claim not permitted.



Gideon Bible Case

Bacon v. Bradley-Bourbonnais High School
District No. 307, 707 F. Supp. 1005 (C.D. IL
1989)

Defenses

- ▶ Statute of limitations—personal injury statute of forum state.
- ▶ Standing – 3 requirements:
 - ▶ Injury in fact
 - ▶ Causal relationship between injury & challenged conduct
 - ▶ Likelihood injury will be redressed by favorable decision

Absolute Immunity

- ▶ Prosecutors
- ▶ Judges
- ▶ Legislators

Qualified Immunity

1. Does the officer's conduct violate constitutional right?
 2. Was constitutional right was clearly established?
- ▶ Applies only to individual Δ sued for damages
 - ▶ Not to Δ sued in official capacity

Prison Litigation Reform Act

- ▶ Exhaustion of administrative remedies required

Civil Rights Attorney's Fees Awards Act of 1976

- ▶ Prevailing plaintiff in §1983 action entitled to attorneys' fees
- ▶ Plaintiff recovering nominal damages not a prevailing party
- ▶ Paralegal fees are recoverable
Missouri v. Jenkins (1989)

Rule 68 Offer of Judgment

- ▶ 14 Days before trial, Δ may serve π with offer of judgment
- ▶ If no response within 14 day, offer deemed rejected
- ▶ Δ not liable for π 's attorney's fees incurred after offer



Operation: Sweep the Streets