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IN THE COURT OF COMMON PLEAS
STATE OF OHIO, COUNTY OF ADAMS
GENERAL DIVISION

SHAWN COOLEY, et al.

:

Plaintiffs

:

CASE NO. CVH 20230069

vs.

:

JOSEPH E. FOREMAN, et al.

:

DECISION/ENTRY OVERRULING
PLAINTIFFS' MOTION FOR JUDGMENT
ON THE PLEADINGS AS TO
DEFENDANTS' COUNTERCLAIMS

Defendants

:

This matter is before the court for consideration of a motion for judgment on the pleadings as to counterclaims #1-8 filed by the defendants. These are all of the defendants' remaining counterclaims after their voluntary dismissal of counterclaims #9-11.

The counterclaims in Cts. #1-6 all relate to damage to the defendant's home which is alleged to have occurred during the execution of a search warrant there by officers of the Adams County, Ohio, Sheriff's Department. The counterclaims in Cts. #1-8 are as follows: Ct. #1- conversion by destruction and damage to doors, door frames, and trim; Ct. #2- conversion by destruction and damage to a closet requiring repair; 3) conversion by disconnection and damage to security cameras and system and DVR; 4) conversion by dispossession and/or damage to security cameras and DVR; 5) conversion by dispossession of and failure to return \$400.00 in U.S. Currency; 6) trespass to chattel by dispossession of and failure to return \$400.00 in U.S. Currency; 7) frivolous conduct under R.C. 2323.51 and violation and deprivation of defendants' civil rights as secured by the United States Constitution and through 42 U.S.C. Sect. 1983; and 8) illegal search and seizure resulting in a deprivation of the defendants' rights under the U.S. Constitution and 42 U.S.C. Section 1983.

The law to be applied by a trial court in ruling on a motion for judgment on the pleadings is as follows:

"¶ 8} Civ.R. 12(C) provides: "After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings." A court that considers a Civ.R. 12(C) motion for judgment on the pleadings "must construe

the material allegations in the complaint, along with all reasonable inferences to be drawn therefrom, in favor of the nonmoving party as true."¹ A court may enter judgment on the pleadings "only if it appears beyond doubt that the nonmoving party can prove no set of facts entitling it to relief."² Thus, Civ.R. 12(C) requires a determination that no material factual issues exist and that the movant is entitled to judgment as a matter of law.³

Consequently, 'as long as there is a set of facts, consistent with the plaintiff's complaint, which would allow the plaintiff to recover, the court may not grant a defendant's motion * * * [for judgment on the pleadings].' "⁴

Although the plaintiffs did not bring their action in this case in their official capacities as law enforcement officers working for the Adams County Sheriff's Office, the facts appear to be undisputed that at all times in this case they were acting in their official capacities as deputy sheriffs in Adams County, Ohio.

In Ohio, a " 'police officer * * * cannot be held personally liable for acts committed while carrying out his or her official duties unless one of the exceptions to immunity is established.' "⁵

In this regard, R.C. 2744.03(A)(6) provides that an employee is immune from liability unless (1) the employee acted outside the scope of his or her employment or official responsibilities, (2) the employee acted with malicious purpose, in bad faith, wantonly, or recklessly, or (3) the Revised Code expressly imposes liability on the employee.

¹ *Ohio Manufacturers' Assn. v. Ohioans for Drug Price Relief Act*, 147 Ohio St.3d 42, 2016-Ohio-3038, 59 N.E.3d 1274, ¶ 10 (citation omitted); accord *State ex rel. Leneghan v. Husted*, 154 Ohio St.3d 60, 2018-Ohio-3361, 110 N.E.3d 1275, ¶ 13, *State ex rel. Midwest Pride IV, Inc. v. Pontious*, 75 Ohio St.3d 565, 580, 664 N.E.2d 931 (1996).

² Ohio Civ.R. 12(C).

³ *Id.*

⁴ *Kerr v. Logan Elm School Dist.*, 4th Dist. Pickaway No. 14CA6, 2014-Ohio-5838, 2014 WL 7477955, ¶ 12, quoting *York v. Ohio State Hwy. Patrol*, 60 Ohio St.3d 143, 145, 573 N.E.2d 1063 (1991).

⁵ *Morrisason v. Horseshoe Casino, Hunt v. Cleveland*, 8th Dist. Cuyahoga No. 103468, 2016-Ohio-3176, 2016 WL 3018688, ¶ 25, quoting *Cook v. Cincinnati*, 103 Ohio App.3d 80, 658 N.E.2d 814 (1st Dist.1995).

Each officer's conduct is typically analyzed separately when determining whether immunity applies.⁶ Moreover, the analysis that is required in this case will clearly be fact intensive in determining whether the employees involved acted outside the scope of employment, and/or in bad faith, wantonly, or recklessly.

Defense counsel points to the damages that were caused, which arguably were excessive, and to the extent they were excessive, were unnecessary. Whether they were excessive and/or unnecessary will be matters to be determined by the trier of fact.

Clearly, from the court's review of the pleadings, as well as upon consideration of the oral and written arguments of counsel, there appear to be triable issues in this case that remain as each plaintiff as to 1) whether the plaintiff acted outside the scope of his or her employment and/or official responsibilities, and 2) whether the plaintiff acted with malicious purpose, in bad faith, wantonly, or recklessly.

Accordingly, the court finds that the plaintiffs' motion for judgment on the pleadings as to the defendants' counterclaims is not well-taken and shall be overruled.

IT IS SO ORDERED.

DATED: 3-27-25

J. R. McBride
JUDGE JERRY R. MCBRIDE

⁶ See *Estate of Graves v. Circleville*, 179 Ohio App.3d 479, 2008-Ohio-6052, 902 N.E.2d 535, ¶ 29-35 (4th Dist.) (analyzing whether the two officers and the dispatcher were entitled to immunity separately).