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SUPREME COURT (decision)

CIVIL RIGHTS: Reisdorff incorrectly afforded local governments judicial/quasi judicial "extension" immunity from §1983 liability, overruled ... summary judgment in dog seizure case reversed ... Fagg reversed.

Following a dog bite incident, the City of Red Lodge filed charges against owner Barbara Miller and obtained an order from City Judge Anderson to impound the dog. Miller elected to euthanize the dog rather than board it at a veterinary clinic. The dog bite victim sued Miller. Miller filed a third-party complaint against the City asserting, inter alia, §1983 claims. Judge Fagg granted summary judgment for the City as to due process, equal protection, constitutionality of the dog ordinances, and double jeopardy, but found that fact issues precluded summary judgment as to the §1983 claim. The City filed a second summary judgment motion claiming judicial and quasi-judicial immunity, which Fagg granted, concluding that it was immune as an extension, pursuant to Reisdorff (Mont. 1999), of the immunity enjoyed by the City Attorney, City Judge, and police officers (MLW 5/26/01:3). Miller appeals.

Based on federal case law, Reisdorff erred in affirming summary judgment on §1983 claims in favor of Yellowstone Co. and the City of Billings pursuant to judicial and quasi-judicial immunity. Reisdorff correctly immunized any "employees of those governmental entities" from individual §1983 liability, and while it does not expressly address this issue, the governments would have been entitled to summary judgment on the §1983 claim absent a constitutional deprivation. However, to the extent that Reisdorff afforded the governments' immunity pursuant to judicial & quasi-judicial immunity, it is overruled. In ruling on Red Lodge's first motion for summary judgment, Fagg queried whether a constitutional deprivation occurred and raised questions regarding the origin of such a deprivation. The second motion, with its assertion of immunity, seemingly derailed the deprivation analysis. It appears that this Court motivated the diversion with its erroneous application of the §1983 immunities in Reisdorff. Summary judgment reversed. We do not pass judgment on Fagg's substantive analyses regarding the individual officials. The dispositive flaw occurred when the City obtained immunity by extension.

Regnier for the full Court.

Miller v. Red Lodge, 01-517, 3/13/03.

Robert Stephens (Southside Law Center), Billings, for Miller; Jared Dahle (Nelson Law Firm), Billings, for the City.

