

Civil Rights Update

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Civil Rights Update: Reaffirmation That Officers Have No Duty to Complete a Full Investigation Before Arrest

The Seventh Circuit recently reaffirmed in *McBride v. Grice*, 576 F.3d 703 (7th Cir. 2009) that defendant police officers are not constitutionally obligated to conduct a full investigation before arrest. McBride (“Employer”) was the owner of a clothing store who engaged in an argument with Guyton, his employee (“Employee”). *Id.* at 704. Employee called Employer a “shyster” and began telling customers not to buy clothes from Employer. *Id.* Employer called the police, but before their arrival, Employer physically removed Employer from his store. *Id.* Officer Grice (“Officer”) of the Peoria Police Department responded to the call, interviewed both Employer and Employee, and placed both of them under arrest after watching a portion of a tape from a security camera. *Id.* Employer argued that it was necessary to remove Employee from his store because she was overturning clothes racks and because she was shouting at him. *Id.* Employer admitted that the argument turned into a physical altercation, and that he showed Officer a scratch on his arm. *Id.*

On the other hand, Employee told Officer that Employer struck her about her head and dragged her from the store. *Id.* Officer noticed minor swelling and a scratch on Employee’s head. *Id.* Officer asked to review the tape from the security monitor. *Id.* at 704-705. The portion of the tape that Officer viewed depicted Employer and Employee struggling but there was never an instance where Employer struck Employee. *Id.* at 705. Unfortunately, Employee and Employer were not within the range of the camera during the entire incident. *Id.* At one point, Employee fell and then Employer and Employee both disappeared out of the sight of the camera. *Id.* After reviewing only a portion of the videotape, Officer arrested both Employer and Employee. *Id.* Officer denied Employer’s request that he watch the remaining portion of the tape which provided a view from a second security camera. *Id.*

All charges against Employer were dropped a year after his arrest, and subsequently Employer filed a §1983 lawsuit arguing that there was no probable cause for his arrest. *Id.* at 704. The magistrate judge for the Central District of Illinois granted summary judgment in favor of Officer and the City of Peoria, concluding that Officer had probable cause to arrest Employer for battery. *Id.* at 705.

On appeal, Employer argued that had Officer reviewed the tape from the second surveillance monitor, he would have discovered that Employer was merely evicting an unruly trespasser. *Id.* Employer argued that Illinois law (720 ILCS 5/7-3) gave him the right to escort a disruptive person out of his store. *Id.* Hence, Employer contended that further investigation by Officer would have led Officer to realize that probable cause was actually lacking because Employer was legally justified in evicting an unruly trespasser. *Id.*

The Seventh Circuit observed the long standing precedent that probable cause is an absolute bar to a §1983 claim for false arrest. *Id.* at 707. Police officers have probable cause to arrest if a reasonable person would believe, based on the facts and circumstances known at the time, that a crime had been committed. *Id.* Generally, officers may base a determination of probable cause on information from the putative victim if the officer reasonably believes that the victim is telling the truth. *Id.* Officers, however, should pursue reasonable

avenues of investigation and may not close their eyes to facts that would clarify the situation. *Id.* Nonetheless, once an officer has established probable cause, he may end his investigation. *Id.*

The Seventh Circuit observed that the existence of a legal justification for battery is not an element of the offense but, rather, an affirmative defense. *Id.* Although Officer “may not ignore conclusively established evidence of the existence of an affirmative defense,” the Fourth Amendment imposes no duty to investigate whether a defense is valid. *Id.* The Seventh Circuit noted that Employee told Officer that Employer had hit her on the head and Employee observed that her eye was slightly swollen and that she had a small scratch on her forehead. *Id.* Those facts certainly established reason to believe that Employer had intentionally made physical contact with Employee and caused her bodily harm. *Id.* at 707-708. In response to the Motion for Summary Judgment, Employer submitted no evidence that suggested that Officer had reason to doubt Employee’s statement. *Id.* at 708. Moreover, Officer had additional evidence from the videotape that depicted a physical altercation. *Id.* The Seventh Circuit therefore concluded that because Officer had probable cause to believe that Employer had committed a battery, he had no obligation to continue his investigation. *Id.*

The Seventh Circuit’s decision in *McBride v. Grice* is consistent with prior opinions issued by the Seventh Circuit. For example, in *Gramenos v. Jewel Cos., Inc.*, 797 F.2d 432, 442 (7th Cir. 1986), the Seventh Circuit held that there was no constitutional or statutory requirement that before an arrest officers must “conduct a trial.” Moreover, in *Gerald M. v. Conneely*, 858 F.2d 378, 381 (7th Cir. 1988), it was noted that “the law does not require that a police officer conduct an incredibly detailed investigation at the probable cause stage, even if ideally that might appear to be a more desirable approach.” Finally, in *Schertz v. Waupaca County*, 875 F.2d 578, 583 (7th Cir. 1989), the Seventh Circuit held that once an officer has sufficient facts to establish probable cause, there is no constitutional duty to conduct any further investigation.

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