

# **Bond Case Briefs**

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## **MUNICIPAL LIABILITY - OKLAHOMA**

### **Ibarra v. City of Tahlequah**

**United States District Court, E.D. Oklahoma - May 13, 2013 - Slip Copy - 2013 WL 1991546**

This case arose when plaintiff was struck in the head by a police officer, causing him to fall to the ground, where, even after being restrained, plaintiff claims officers continued to strike him and yell racially charged epithets.

Plaintiff filed a complaint with the police chief, who later testified that he did not investigate the incident after the complaint, because plaintiff was “hard to understand” and “wasn’t being specific on what was going on.” However, the chief did understand that plaintiff “had been arrested and ... there was some police brutality or something to that effect.” Charming.

In order to prevail on his claim for racial harassment in violation of the Equal Protection Clause, Plaintiff must prove both that: 1) the defendant officers engaged in harassing behavior or violated one of plaintiff’s established rights; and 2) the defendant officers’ actions were racially motivated.

Municipal liability under § 1983 attaches where—and only where—a deliberate choice to follow a course of action is made from among various alternatives by the official or officials responsible for establishing final policy with respect to the subject matter in question. A municipality cannot be held liable for the acts of its employees on a theory of respondeat superior. Thus, a city cannot be made vicariously liable for acts of the individual officers under 42 U.S.C. § 1983. Rather, a plaintiff must establish both: 1) a municipal policy or custom; and 2) a direct causal link between the policy or custom and the alleged injury.

The district court concluded that:

- The police chief was the final policymaker with regard to department policies and procedures;
- There existed sufficient evidence support a finding of deliberate indifference to the need for additional training on civil rights matters;
- There existed sufficient evidence to find that the failure to correct the alleged deficient training on issues of civil rights was the driving force behind plaintiff’s injuries;
- A reasonable jury could certainly find the complaints the police chief allegedly received were sufficient to establish a continuing, widespread, and persistent pattern of misconduct by department officers resulting in plaintiff’s injuries;
- There existed sufficient to establish a custom or practice of disregarding the rights of Hispanic residents of the city; and
- There existed no evidence to support plaintiff’s allegations of negligent hiring.