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INVERSE CONDEMNATION - MICHIGAN

Hescott v. City of Saginaw

United States Court of Appeals, Sixth Circuit - July 2, 2014 - F.3d - 2014 WL 2959289

Following jury verdict for property owners in § 1983 suit against city, alleging unconstitutional seizure and destruction of personal effects after demolition of rental property, owners moved for award of attorneys' fees under § 1988 and city moved for award of attorneys' fees based on continued litigation after owners rejected city's offer of judgment. The District Court granted in part and denied in part parties' motions, and granted in part and denied in part owners' motion for reconsideration.

The Court of Appeals held that:

- Special circumstances did not exist to justify denial of § 1988 attorneys' fees award to owners;
- Federal rule governing offers of judgment cannot force prevailing civil rights plaintiff to pay defendant's post-offer attorneys' fees; and
- Attorneys' fees were not properly awardable to city under § 1988, precluding award of post-offer fees under federal rule governing offers of judgment.

Concerns that property owners' § 1983 claims against city involved only loss of modest residence in bad neighborhood, that city acted in good faith in demolishing house and pursuing its defense throughout suit, and that owners overreached both in number of claims they pursued and damages they sought at trial did not constitute special circumstances to justify denial of attorneys' fees award to owners under § 1988. Concern over value of property ran counter to purpose of § 1988, which was to enable plaintiffs to enforce civil rights even where amount of damages would not otherwise make it feasible to do so, city's good faith simply was not special circumstance justifying denial of attorneys' fees, and owners' failure to secure punitive damages award was irrelevant to determining whether special circumstances existed.

Section 1988 is not a two-way fee-shifting statute, and thus federal rule governing offers of judgment cannot force a prevailing civil rights plaintiff to pay a defendant's post-offer attorneys' fees.

Attorneys' fees were not properly awardable to city under § 1988, barring the city's recovery of post-offer attorneys' fees under federal rule governing offers of judgment, where city did not prevail on property owners' Fourth Amendment claim, and thus it could not possibly prove that owner's § 1983 suit was frivolous, unreasonable, or without foundation.