

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **IMMUNITY - FLORIDA**

### **Khoury v. Miami-Dade County School Board**

**United States Court of Appeals, Eleventh Circuit - July 7, 2021 - F.4th - 2021 WL 2817612**

Detainee brought § 1983 action against public school board and public school police officers, asserting claims for municipal liability against board and claims against officers for false arrest, excessive force, and First Amendment retaliation.

The United States District Court for the Southern District of Florida entered summary judgment for board and officer. Detainee appealed.

The Court of Appeals held that:

- Officer was not entitled to qualified immunity for false arrest claim;
- Fact issues precluded summary judgment on First Amendment retaliation claim; and
- Board did not have municipal liability under § 1983.

Public school police officer had no arguable probable cause to conclude that detainee was a danger to herself or others as required to involuntarily commit her for a mental health examination under Florida's Baker Act and thus, he was not entitled to qualified immunity from detainee's § 1983 false arrest claim, where although detainee had been acting strangely while filming vehicles she believed to be parked illegally and acted irrationally by screaming she was being attacked by the officer, she was not violating the law or harming anyone by filming, nor was she a threat to any of the witnesses.

Genuine issue of material fact as to whether there was a causal connection between public school police officer's retaliatory actions in involuntarily committing detainee and forcing her to undergo a mental health examination under Florida's Baker Act in connection with incident related to detainee's filming of what she believed to be illegally parked cars on school property and the adverse effect on speech precluded summary judgment on detainee's First Amendment retaliation claim against officer.

Detainee failed to provide sufficient evidence that public school board had a custom or practice of committing people who did not qualify for an involuntary mental health examination pursuant to Florida's Baker Act and thus, board did not have § 1983 municipal liability for alleged violation of her First and Fourth Amendment rights for public school police officer's actions in committing her for a mental health examination under the Baker Act in relation to an incident that occurred while she was filming cars she believed to be illegally parked on school property; despite detainee's allegations of other incidents involving the Baker Act detentions, those incidents were either too remote in time or did not show a constitutional violation.