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LIABILITY - TEXAS

Vess v. City of Dallas

United States District Court, N.D. Texas, Dallas Division - June 23, 2022 - F.Supp.3d - 2022 WL 2277504

City resident experiencing homelessness brought action against city and city fire-rescue department employee, asserting claims under § 1983 for excessive force and municipal liability arising from incident in which employee assaulted resident when employee responded to grass fire. Employee moved for judgment on the pleadings, city moved to dismiss.

The District Court held that:

- Resident was seized when employee kicked him in the head;
- Resident failed to state claim for municipal liability based on alleged custom or practice of inaction and attitude of indifference towards providing medical treatment for persons with mental health conditions and persons experiencing homelessness;
- Resident sufficiently alleged that city had practice or custom of protecting previously-disciplined and unfit fire department employees, as element of § 1983 claim for municipal liability;
- Resident sufficiently alleged that city's practice or custom of protecting previously-disciplined and unfit fire department employees was moving force behind department employee's actions; but
- Resident failed to sufficiently allege that city was deliberately indifferent in providing inadequate training regarding how to detain and treat persons with mental health conditions and persons experiencing homelessness.

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