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IN THE COURT OF APPEALS OF IOWA
CLERK SUPREME COURT

BILLY E. STANFIELD,)

Plaintiff-Appellant,)

Filed November 26, 1980

vs.)

DALLAS COUNTY, IOWA,)

0-331
2-64471

Defendant-Appellee.)

Appeal from Dallas District Court - Robert O. Frederick, Judge.

Plaintiff appeals trial court's grant of summary judgment for defendant county, alleging that the trial court erred 1) by holding that his guilty pleas to lesser charges collaterally estopped him from bringing this action and 2) by basing its grant of summary judgment on prosecutorial immunity and the defense that the county sheriff acted in good faith and with probable cause. **AFFIRMED.**

Mark C. Smith of Stamatelos & Smith, West Des Moines, for plaintiff-appellant.

Kent M. Forney and Antonio Colacino of Bradshaw, Fowler, Proctor & Fairgrave, Des Moines, and H. Richard Smith of Ahlers, Cooney, Dorweiler, Haynie & Smith, Des Moines, for defendant-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

DONIELSON, J.

Plaintiff Billy Stanfield appeals from trial court's decision to sustain defendant county's motion for summary judgment. Plaintiff contends that the trial court erred by holding that his guilty pleas to lesser charges estopped him from bringing this action and by basing its grant of summary judgment on immunity for the county attorney, the county sheriff, and their assistants. We affirm.

Our review is limited to correction of errors at law. Iowa R. App. P. 4.

I.

In March of 1975, while plaintiff was serving as police chief of the town of Adel, he was arrested pursuant to a warrant and charged with having committed lewd and lascivious acts with a minor. In April of 1975, he was indicted by a grand jury on charges of sodomy and lewd and lascivious acts with a minor. A plea bargain was entered into in August 1975, and plaintiff pleaded guilty to the lesser charges of assault with intent to commit a felony and exhibiting obscene material to a minor. The plea bargain also called for the county attorney to request dismissal of the two original charges.

Plaintiff filed an application to withdraw his guilty pleas in October of 1975, alleging that he had been pressured to enter the pleas by threats of further charges and by the desire to spare his elderly, ailing mother the embarrassment and prolonged strain of public trials on these and possibly additional charges. His application to withdraw the pleas was denied and he was subsequently sentenced to two years of probation, conditioned on a period of residency at a correctional facility. He was released from that facility in February of 1976 and discharged from probation in October 1977.

In February 1977, plaintiff filed an application for post-conviction relief based on the contention that his guilty pleas had not been voluntary. He amended his application to add that the county attorney had failed to abide by the plea bargain because he had not yet requested dismissal of the two original charges. Plaintiff then moved for summary judgment on his application and the county attorney requested and obtained dismissal of the two original charges. Plaintiff's motion for summary judgment was denied and plaintiff's application for post-conviction relief was later dismissed in January of 1979 for lack of prosecution.

In December 1977, plaintiff filed the present action against Dallas County, requesting actual damages of one million dollars and punitive damages of two and one-

half million dollars. His petition alleged that the accusations against him were groundless and that employees and agents of defendant county had coerced several juveniles into making false statements about him and had coerced his guilty pleas by harassment and threats of additional charges. He further contended that an assistant county attorney had violated the plea bargain by refusing to dismiss the original charges and by threatening to prosecute under those charges if plaintiff tried to vindicate his rights. Finally, he alleged that these actions were designed to cause and did cause him emotional distress, damage to his reputation, loss of his job and inability to procure another one, and deprivation of his right to trial by jury and other constitutional rights.

Defendant county filed a motion for summary judgment, contending 1) that plaintiff was collaterally estopped from challenging the institution of criminal charges against him because he had already pleaded guilty on the same facts; 2) that defendant was protected from liability because the judicial and prosecutorial immunity of its agents and employees extended to the county itself; and 3) that the county sheriff and deputies had acted in good faith, with probable cause, and at the direction of the county attorney, and thus were immune from liability. The trial court granted defendant's motion for summary judgment, relying primarily on the county's estoppel theory and holding that plaintiff's guilty pleas were made voluntarily and intelligently. The court also agreed with defendant's immunity arguments.

II.

Plaintiff alleges that the trial court erred in concluding that he was estopped from bringing this action because he had already pleaded guilty to charges based on the same facts that he is now trying to deny in the present action. We agree with the trial court that plaintiff is estopped from bringing this suit against the county.

Although plaintiff was originally charged with sodomy and with committing lewd and lascivious acts with a minor, he pleaded guilty to and was convicted of the lesser offenses of assault with intent to commit a felony and exhibiting obscene material to a minor. All four charges, however, were based on the same facts. Plaintiff now contends that the charges brought against him lacked any factual basis. We fail to see how such a claim can be available to the plaintiff at this time because, by virtue of having pled guilty to the two lesser charges in the previous action, plaintiff admitted the existence of facts on which all four charges were based. It is well-established in Iowa that a guilty plea voluntarily entered in a criminal proceeding constitutes an

admission against interest and is admissible as such in a subsequent civil action. Farm and City Insurance Company v. Hassel, 197 N.W.2d 360, 364 (Iowa 1972); Martin v. Cafer, 258 Iowa 176, 185, 138 N.W.2d 71, 77 (1965); Book v. Datema, 256 Iowa 1330, 1332-33, 131 N.W.2d 470, 471 (1964). An admission serves as substantive evidence of the existence of any facts that it has a tendency to establish. Book, 256 Iowa at 1333, 131 N.W.2d at 471. We believe that plaintiff's guilty pleas and the judgments resulting therefrom serve to establish the existence of the facts on which the charges were based, and we hold that plaintiff is now estopped from denying the existence of those facts by claiming that the accusations against him were groundless. This particular application of the collateral estoppel doctrine has been recognized in federal courts as the general rule in civil suits following criminal adjudication involving the same facts or issues, regardless of whether the prior criminal adjudication was based on a jury verdict or a guilty plea. Brazzell v. Adams, 493 F.2d 489, 490 (5th Cir. 1974). See also Emich Motors Corp. v. General Motors Corp., 340 U.S. 558, 568-69, 71 S. Ct. 408, 414, 95 L. Ed. 534, 544 (1951); Metros v. United States District Court, 441 F.2d 313, 316-17 (10th Cir. 1970); Hyslop v. United States, 261 F.2d 786, 790 (8th Cir. 1959); Hooper v. Guthrie, 390 F. Supp. 1327, 1333-34 (W.D. Pa. 1975); Bradford v. Lefkowitz, 240 F. Supp. 969, 975 (S.D.N.Y. 1965). We think the doctrine is appropriately applied in the instant case.

III.

Plaintiff next contends that the trial court erred by basing its grant of summary judgment on immunity for the county attorney, the county sheriff, and their assistants. Specifically, plaintiff alleges 1) that summary judgment was inappropriate here because factual questions remain regarding whether the county attorney acted outside the scope of his authority and whether the county sheriff acted in good faith and with probable cause and 2) that even if the county sheriff and his deputies acted in good faith and with probable cause, the resulting immunity was personal to them as law enforcement officials and was not available as a defense for the county itself. We find no merit in plaintiff's contentions.

It is well settled that prosecuting attorneys are granted absolute immunity from civil liability for actions taken within the scope of their official capacity. Imbler v. Pachtman, 424 U.S. 409, 427, 96 S. Ct. 984, 993, 47 L. Ed. 2d 128, 142 (1976) (holding that prosecutors enjoy the same absolute immunity under § 1983 as at common law); Burr v. City of Cedar Rapids, 286 N.W.2d 393, 395 (Iowa 1979); Blanton v. Barrick, 258 N.W.2d

306, 308 (Iowa 1977); Gartin v. Jefferson County, 281 N.W.2d 25, 30 (Iowa Ct. App. 1979). Although law enforcement officials are not entitled to the same absolute and unqualified immunity enjoyed by prosecutors, they are entitled to an immunity qualified by the extent to which they have acted in good faith and with probable cause. Pierson v. Ray, 386 U.S. 547, 555-57, 87 S. Ct. 1213, 1218-19, 18 L. Ed. 2d 288, 295-96 (1967) (holding that such immunity is available to police officers in § 1983 actions); see Johannsen v. Steuart, 260 Iowa 1140, 1144, 152 N.W.2d 202, 204 (1967). Plaintiff does not dispute either of these points. He does contend, however, that summary judgment is inappropriate in the instant case because questions of fact remain concerning whether the county attorney acted within the scope of his prosecutorial authority and whether the county sheriff and his deputies acted in good faith and with probable cause. Plaintiff does not specify, however, what factual questions remain to be resolved. This failure is fatal under Iowa law, since Iowa R. Civ. P. 237(e) requires the party resisting the motion for summary judgment to set forth a statement of specific facts showing that genuine issues of fact remain to be resolved. That party may not rest upon the mere allegations of his or her pleadings and an attempt to do so will result in summary judgment in favor of the moving party. Id. Because the plaintiff has failed to comply with the requirements of Iowa R. Civ. P. 237(e), we find that summary judgment was appropriately entered in favor of the defendant county.

IV.

In his brief, plaintiff raises the point that his claims against the defendant county also stem from allegedly wrongful acts committed by employees of the clerk of court's office. Defendant's motion for summary judgment did not address this additional claim. Plaintiff therefore contends that the defendant's motion did not address all of plaintiff's claims and that accordingly the trial court erred in dismissing plaintiff's petition in its entirety. We are not persuaded by this argument. While plaintiff does refer to the clerk of court's office in his petition, a review of the record fails to reveal that the matter was discussed as an issue at trial. We therefore will not address it on appeal. State v. Washington, 257 N.W.2d 890, 895 (1977), cert. denied, 435 U.S. 1008, 98 S. Ct. 1881, 56 L. Ed. 2d 390 (1978).

We affirm the trial court's grant of summary judgment in favor of defendant county.

AFFIRMED.