

IN THE COURT OF APPEALS OF IOWA

No. 9-097 / 98-0382

Filed April 30, 1999

JENNIFER PEDERSEN and JOLENE GREBNER,

Appellants,

vs.

**MARVIN ANDERSEN, Individually,
HUMBOLDT COUNTY, and STATE OF IOWA,**

Appellees.

Appeal from the Iowa District Court for Hamilton County, Joel E. Swanson and William J. Pattinson, Judges.

Plaintiffs appeal the dismissal of their claims against Humboldt County, its sheriff, and the State of Iowa based upon the plaintiffs' alleged mistreatment in a criminal investigation. **AFFIRMED.**

Jeane W. Pearson of Price & Pearson, Fort Dodge, for appellants.

Thomas J. Miller, Attorney General, and Joanne Moeller, Assistant Attorney General, for appellee State.

James L. Kramer and Thomas J. Bice of Johnson, Erb, Bice, Kramer, Good & Mulholland, P.C., Fort Dodge, for appellees Andersen and Humboldt County.

Heard by Streit, P.J., and Vogel and Zimmer, JJ.

VOGEL, J.

Plaintiffs Jennifer Pedersen and Jolene Grebner appeal the dismissal of their claims against Humboldt County, its sheriff, and the State of Iowa based upon plaintiffs' alleged mistreatment in a criminal investigation. We affirm.

Background facts. On August 19, 1994, Pedersen and Grebner, then aged seventeen and sixteen respectively, asked a mentally disabled male co-worker to purchase alcohol for them. The group then drove to a remote spot in Humboldt County where both girls engaged in sexual activity with the man. The girls later told police that they had been sexually assaulted and an investigation ensued. The co-worker claimed that the sexual activity was consensual; the girls claimed they were too intoxicated to consent. Criminal charges were filed against the man but were eventually dismissed for lack of evidence. Following the dismissal of the charges, a local newspaper quoted the county sheriff as saying that the alleged perpetrator had been falsely accused and that the "two female juveniles" had confessed to lying about the allegations. The sheriff also stated that test results had revealed the absence of semen and that both girls had failed polygraph tests. The sheriff did not identify the girls by name. The girls were charged with filing false reports, but those charges were subsequently dismissed.

In September of 1996, Pedersen and Grebner filed suit against the sheriff, the county and the State, alleging numerous claims relating to their treatment during the

criminal investigation. Before the case proceeded to trial, all claims were dismissed by the district court through a series of orders.¹ Pedersen and Grebner now appeal.

I. Grebner's claims. The district court found that it had no subject matter jurisdiction over any of Grebner's claims because she failed to exhaust her administrative remedies by failing to comply with the provisions of the Iowa Tort Claims Act, Chapter 669 of the Iowa Code. Although Grebner did file a claim with the State Appeal Board, she withdrew it a month later. She argues that this should not preclude her from pursuing her claim because it was considered "vicariously" by the State Appeal Board through its review of Jennifer Pedersen's "identical" claim. We find all of Grebner's arguments to be without merit. She was clearly required to file and maintain her own claim for consideration by the Appeal Board. *See* Iowa Admin. Code § 543-1.4(1) ("A separate claim shall be filed for each type for each claimant."). The district court did not err in dismissing her claims.

II. Pedersen's claims against the State. All of Pedersen's claims against the State were based upon the actions of the DCI agent who administered her polygraph test.² Pedersen essentially claimed that the DCI agent used inappropriate investigative

¹ The district court ruled on several rounds of dispositive motions filed by the defendants in an attempt to pare down the plaintiffs' suit to any viable claims. We agree with the district court's observation that the petition "could be more clear with respect to the legal theories relied upon for relief in this case."

² We note that both Pedersen and her mother consented in writing to the administration of the test.

procedures and administered the test in an unprofessional manner. She contends the district court erred in dismissing her claims on summary judgment.

We review a summary judgment ruling for error. *Anderson v. Miller*, 559 N.W.2d 29, 31 (Iowa 1997). We examine the record before the district court to decide whether a genuine issue of material fact exists and whether the court correctly applied the law. *See Id.*; Iowa R. Civ. P. 237(c). In doing so, we view the facts in the light most favorable to the party opposing the motion for summary judgment. *Anderson*, 559 N.W.2d at 31.

The court first rejected Pedersen's claim of emotional distress, finding that the actions of the agent as asserted by Pedersen, as a matter of law, did not constitute outrageous conduct. The court next disposed of Pedersen's claims that the agent invaded her privacy and divulged information in violation of the Iowa Code as there was no evidence that the agent had released information to anyone other than the appropriate investigating authorities. The court found that Pedersen's remaining claims of negligence and "negligent operations" were based upon investigative procedures, and correctly ruled that officers cannot be held liable for mere negligence in an investigation. *See State v. Smith*, 324 N.W.2d 299, 300-01 (Iowa 1982). We find no error of law by the court and therefore affirm the dismissal of Pedersen's claims against the State.

III. Pedersen's claims against the county and sheriff. Pedersen's claims against the county and sheriff were based upon their alleged mistreatment of her in

their investigation and release of information in violation of the Iowa Code. She asserts the district court erred in dismissing each of her claims via an adjudication of law points and a judgment on the pleadings.

In response to requests from both sides for an adjudication of law points, the court issued two rulings which determined that: 1) the proceedings in the underlying criminal sexual assault case were a matter of public record; 2) the results of the plaintiff's medical examination and polygraph test were not intelligence data pursuant to Iowa Code Chapter 692; and 3) plaintiffs were precluded from any recovery based on a theory of negligence against the county and sheriff. Based on these rulings, the county and sheriff moved for a judgment on the pleadings, pursuant to Iowa Rule of Civil Procedure 222, on all remaining claims. The court determined that the prior rulings precluded Pedersen's recovery under any of her asserted theories and dismissed her petition in its entirety.

We review an appeal from a motion to adjudicate law points for correction of errors at law. *See State v. Mann*, 463 N.W.2d 883, 883 (Iowa 1990); *Taylor Enterprise, Inc. v. Clarinda Production Credit Ass'n*, 403 N.W.2d 794, 795 (Iowa 1987). We likewise review a judgment on the pleadings for errors at law. *See Iowa R. App. P. 14(f)(1)*. A judgment on the pleadings may be entered where the party is entitled to judgment under the uncontroverted facts as stated in *all* the pleadings. *See Iowa R. Civ. P. 222* (emphasis added).

We find no error in any of the court's rulings. As with the State, Pedersen's claims of negligence or negligent operations based on the actions of the county and sheriff in their investigation were properly dismissed because there is no recognized cause of action for negligence by an officer in conducting a criminal investigation. *See Smith*, 324 N.W.2d at 300-01. In addition, even assuming Pedersen's allegations are true, we agree with the district court that the conduct by the defendants did not, as a matter of law, rise to the level of outrageousness. Therefore, Pedersen's emotional distress claim was also properly dismissed.

We agree that the sheriff's comments to the media were within the bounds of the law, particularly since the dismissal of the criminal charges was a matter of public record. The motion to dismiss the charges referred to the failed polygraph tests and the girls' admissions that they had lied. Furthermore, we agree that the medical examination results were not "intelligence data" or "criminal history data" pursuant to Chapter 692.³ Again, both girls remained anonymous at all times. For these reasons, we find that Pedersen's claims of code violations and invasion of privacy were also properly dismissed.

³ The question of whether the medical examination results were "criminal history data" was not addressed in the court's ruling on adjudication of law points. However, in entering its judgment on the pleadings, the court was correct in its determination that previous rulings by the court on summary judgment (some of which were not appealed) absolutely precluded a finding that the results were criminal history data.

Having considered all issues properly before us on appeal and finding all of the plaintiff's arguments to be without merit, we hereby affirm the district court's dismissal of Pedersen and Grebner's claims.

. AFFIRMED.

No. 98-0382. [9-097] PEDERSEN v. ANDERSEN

Appeal from the Iowa District Court for Hamilton County, Joel E. Swanson and William J. Pattinson, Judges. **AFFIRMED.** Heard by Streit, P.J., and Vogel and Zimmer, JJ. Opinion by Vogel, J. (7 pages \$2.80)

On August 19, 1994, Jennifer Pedersen and Jolene Grebner, then aged seventeen and sixteen, asked a mentally disabled male co-worker to purchase alcohol for them. That same evening the girls engaged in sexual activity with the man. The girls later told police they had been sexually assaulted and an investigation ensued. Criminal charges were filed, but later dismissed for lack of evidence. Following the dismissal, a local newspaper quoted the county sheriff as saying the alleged perpetrator had been falsely accused and the “two female juveniles” had confessed to lying about the allegations. The sheriff also stated that test results had revealed the absence of semen and that both girls had failed polygraph tests. The sheriff did not identify the girls by name. Pedersen and Grebner subsequently filed suit against the sheriff, the county and the State, alleging numerous claims relating to their treatment during the investigation. Before the case proceeded to trial, all claims were dismissed by the district court through a series of orders. ***I. Grebner’s claims.*** The district court found that it had no subject matter jurisdiction over any of Grebner’s claims because she failed to exhaust her administrative remedies by failing to comply with the provisions of the Iowa Tort Claims Act, Chapter 669 of the Iowa Code. Although Grebner did file a claim with the State Appeal Board, she withdrew it a month later. She argues that this should not preclude her from pursuing her claim because it was considered “vicariously” by the State Appeal Board through its review of Jennifer Pedersen’s “identical” claim. We find all of Grebner’s arguments to be without merit. She was clearly required to file and maintain her own claim for consideration by the Appeal Board. The district court did not err in

No. 98-0382. [9-097] PEDERSEN v. ANDERSEN (continued)

dismissing her claims. ***II. Pedersen’s claims against the State.*** All of Pedersen’s claims against the State were based upon the actions of the DCI agent, who Pedersen claims used inappropriate investigative procedures and administered the test in an unprofessional manner. She contends the district court erred in granting the State’s motion for summary judgment on all of her claims. We find no error of law by the court. ***III. Pedersen’s claims against the county and sheriff.*** Pedersen’s claims against the county and sheriff were based upon their alleged mistreatment of her in their investigation and release of information in violation of the Iowa Code. She asserts the district court erred in dismissing each of her claims via an adjudication of law points and a judgment on the pleadings. However, the court determined that prior rulings on summary judgment and adjudicating law points precluded Pedersen’s recovery under any of her asserted theories and dismissed her petition in its entirety. We find no error in any of the court’s rulings.