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Legal Research 2

April 13, 2010

**Citation:** *Hyatt v. Anoka Police Dept.,* 691 N.W.2d 824 Minn., 2005

**Parties:** Lena M. Hyatt, Plaintiff-Appellant

Anoka Police Department, Defendant-Apellee

**Facts:** On May 21, 2002, at approximately 1:30 am, four police officers entered the barn, where Andrew Hyatt and his wife appellant Lena Hyatt stayed at. Andrew Hyatt was charged with a controlled substance crime, fleeing a police officer, and driving after revocation. When the officers entered the barn, the door was unlocked. They heard movements in the second level and called out to Andrew Hyatt to come down. When Andrew Hyatt did not respond, Lenzmeier and Deputy Todd Diegnau went upstairs to find two people in bed, who were Andrew and Lena Hyatt. Lenzmeier pulled the blankets away from Andrew Hyatt to make sure there were no weapons under the covers.

According to the deposition testimony and the deputies’ departmental reports, Andrew Hyatt got out of his bed and started yelling, “Go ahead, just shoot me, shoot me,” and then sprung towards the deputies. Andrew Hyatt hit Diegnau, while Lenzmeier called downstairs for assistance. Mark Yates came upstairs with his police dog, named Chips, who was on a leash. Yates saw blood on Diegnau’s face and saw Andrew Hyatt standing behind his wife Lena Hyatt. Andrew Hyatt continued to yell, “Shoot me, shoot me.” Lenzmeier believes that Lena Hyatt is acting as a shield for Andrew by standing in front of him.

Andrew Hyatt ran towards the back room, and Yates released Chips. Chips did not run after Andrew Hyatt, but instead ran towards Lena Hyatt attacking her. Chips bit Lena Hyatt to the ground and performed a “bite and hold” on her left leg and right arm. While the dog was holding onto Lena Hyatt, Yates ran after Andrew Hyatt, who escaped through a second-story window. When Yates later returned to Lena Hyatt, he released Chips, and told Lenzmeier to handcuff and arrest Lena Hyatt for a suspicion of obstruction of legal process. Lena Hyatt was taken by ambulance to the Coon Rapids hospital and treated for a 2-inch laceration on her right elbow and a 5-inch laceration on her left knee.

Lena Hyatt sued the City, seeking compensation for medical costs and pain. Her complaint alleged liability on the basis of the dog bite statute, which states: If a dog, without provocation, attacks or injures any person who is acting peaceably in any place where the person may lawfully be, the owner of the dog is liable in damages to the person so attacked or injured to the full amount of the injury sustained. The term “owner” includes any person harboring or keeping a dog, but the owner shall be primarily liable. The term “dog” includes both male and female of the canine species.

The City moved for a summary judgment arguing that the dog bite statute does not apply to police dogs. They also argue that the police department was not a legal entity and therefore cannot be joined in with them as a defendant. The city also asserts that they are entitled to statutory and vicarious official immunity.

The district court denied the city’s motion, ruling that the statute does indeed apply to police dogs as well since the statute did not explicitly exempt them. The district court also ruled that because the use of police dog was “operational”, the city was not entitled to immunity. The district court did not address however the question of joining in the police department as a defendant.

On appeal, the city argued that applying the dog bite statute to municipal owners of police dogs “clearly produces an absurd result.” They relied on the guideline for statutory construction contained in Minn.Stat. § 645.17 (1) (2004) which provides that the legislature does not intend a result that is absurd, impossible of execution, or unreasonable.” The divided court of appeals agreed and ordered a summary judgment for the City. Lena Hyatt appeal.

On appeal from summary judgment, the court review whether the district court erred in applying the law. Statutory interpretation is a question of law and needs to be review in de novo.

**Prior Proceedings:** Arrestee’s wife Lena Hyatt sued the city and police department for injuries that were sustained during arrest in which a police dog performed a “bite and hold” on her arm and leg. The District Court, Anoka County, denied city’s motion for summary judgment. City appealed, and the Court of Appeals, reversed, based on determination that it was “absurd” to apply dog bite statute to police dogs. Wife appealed.

**Issue 1** Under MN dog bite statute, is the owner of police dogs, liable when their dog attacks and injures a person who was acting peaceably in a place where that person can lawfully be?

**Issue 2** Under MN Statute of reasonable force, is it considered reasonable force when a police dog attacks an individual who is a bystander of the arrestee, but is not the subject of the arrest?

**Holding 1** The Supreme Court, Hanson, J., held that statute imposing liability on owners of dogs that injure another does applied to municipal owners of police dogs.

**Holding 2** The Supreme Court held that it is reasonable to use force for the purpose of affecting a lawful arrest and should only be applied if the bystander attempts to impede a lawful arrest.

**Reasoning 1** To determine if the dog bite statutes apply to municipal owners of police dogs, the court focuses on the plain meaning of the words used in the statute. An “owner” of a dog that injures or attacks a person who did not provoke the animal and acted peaceably in a place where she had a right to be, is liable. The term “owner” includes “any persons” harboring or keeping a dog. The term “any persons” can be applied to include “bodies politic,” such as municipalities. So to conclude, the plain meaning of the words used in the dog bite statutes does apply to municipal owner of a police dog.

The court however did agree that applying the dog bite statute to police dogs is absurd because police officers are authorized to use “reasonable force” in certain circumstances. The court is however not certain that the reasonable force statute applies to this situation. Given the plain meaning of the dog bite statute, the court still hold that it does apply to police dogs. So they reverse the grant of summary judgment to the city on Lena Hyatt’s claim under the dog bite statute.

**Reasoning 2** The common law recognizes that the privilege of allowing reasonable force towards the arrestee can also be used toward a third person who attempts to impede a lawful arrest.

The use of reasonable force will only apply to the genuine issues of material fact. Since both statutes are in conflict with one another, it was necessary to reconcile the conflict. Under the de novo review, the guideline of statutory construction or reconciling the provisions is contained in Minn.State § 645.26, subd. 1 (2004), states that:

“When a general provision in a law is in conflict with a special provision in the same or another law, the two shall be construed, if possible, so that effect may be given to both. If the conflict between the two provisions be irreconcilable, the special provision shall be prevail and shall be construed as an exception to the general provision, unless the general provision shall be enacted at a later session and it shall be the manifest intention of the legislature that such general provision shall prevail.”

The dog bite statute is more general than the special provision in the reasonable force statute. The court uses their reasoning’s from the Arizona Court of Appeals, which held that although the state’s strict liability dog bite statute applies to police dogs, it had to be read alongside “justification statutes” in which allows police officers to use reasonable force when making lawful arrests. But this exclusion does not apply to innocent bystander-someone “not a party to, nor a participant in, nor suspected to be a party to or a participant in, the act that prompted the use of the dog.”

The Supreme Court reverse the court of appeals’ decision, which granted summary judgment and dismissed the claim made under the dog bite statute, and hold that Hyatt may pursue a claim under that statute. Hyatt’s claim for unreasonable force depends on the facts if she was just an innocent bystander or not. Since the court of appeals did not reach the City’s alternative claims for immunity or address whether the police department is a legal entity subject to suit, the Supreme remand the court of appeals with directions to consider those issues. If the court of appeals finds that the City is not entitled to immunity, the case should then be remanded to the district court for genuine issues of material fact arising from the dog bite and reasonable force statutes.

**Disposition:** Reversed and remanded to the court of appeals.

**Comments:** I agree with the Court’s decision. This was a tough one because the criminal statute came into conflict with the civil statute. I do feel that the dog bite statute should be amended to include a justification on when police dogs should be used.