

ILLINOIS PROSECUTOR SERVICES, LLC

19650 S. Standard City Road
Carlinville, IL 62626
Phone: (217) 854-8041
Website: www.ipsllonline.com
E-mail: don@ipsllonline.com



LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

By Don Hays

Month of September – 2026 - ALTERNATIVE

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Qusai Alkafaween v. The Village of New Lenox, et al., 2026 IL App (3d) 250449, June 15, 2026.

THE CASE - Officers “dumped” Alkafaween in a location apparently unknown to him and, when he tried to walk away, he was struck by a car and severely injured. Alkafaween sued the Officers, and the trial court granted the Officers’ motion for summary judgment based on their argument that they were absolutely immune from liability. Did the trial court err in granting summary judgment in favor of the defendant Officers in this case?

FACTS: On December 5, 2020, shortly before 11 p.m., two New Lenox Police Officers were dispatched to a local Hospital to investigate a possible criminal trespass to real property. Both officers were dressed in full police uniforms at the time, were driving their own marked squad cars, and were wearing police body cameras that recorded their interactions. The dispatch indicated that an individual, who was later identified as Alkafaween, the plaintiff in this case, had been discharged from the hospital but was refusing to leave. Upon arrival at the hospital, the Officers approached and spoke to a Hospital security guard. The guard told the Officers that plaintiff had been treated for a possible overdose and eventually discharged. After the Officers finished speaking to the guard, they spoke to Alkafaween.

During the conversation, the Officers asked Alkafaween multiple times where he lived, whether he lived in Chicago or Orland Park, where he wanted to go that evening, and who the officers could call to give plaintiff a ride. Alkafaween either did not answer or did not provide a rational or specific response. Despite the Officers’ repeated questions, Alkafaween never told the officers where he lived or where he wanted to go. At one or more times during the conversation Alkafaween indicated that he wanted to go back into the hospital, but the Officer told him he could not do so. Eventually, after the conversation between the police officers and Alkafaween had gone on for about 14 minutes, the officers, believing that the Alkafaween lived in nearby Orland Park, deciding to transport him to a location near the city limits of Orland Park. [In fact, a supervising Officer informed the Hospital staff and the security guard that he was having one of the officers “dump” Alkafaween off near the Will County-Cook County border and that hopefully he would not “ping pong” back to the hospital.] An Officer dropping the plaintiff off near a closed restaurant and drove away. Apparently, Alkafaween was unfamiliar with this area. Shortly thereafter, Alkafaween was struck by a car and severely injured while walking away from the restaurant.

Alkafaween filed a civil tort action against multiple defendants for injuries that he suffered when he was hit by the car. The New Lenox defendants filed a motion for summary judgment, alleging that they were immune from liability under, among other things, section 4-102 of the Tort Immunity Act (745 ILCS 10/4-102) because during the police encounter with Alkafaween, the officers were providing police protection services. Following a full briefing and a hearing on the matter, the trial court granted the Officers’ motion for summary judgment on all of Alkafaween’s claims. Alkafaween brought this appeal.

THE LAW: The trial court, in the instant case, granted the motion for summary judgment based upon the application of the Tort Immunity Act. The Tort Immunity Act governs the tort liability of local public entities and public employees. The Act adopts the general principle that local governmental units are liable in tort but limits that liability with an extensive list of immunities based on specific government functions. The Act’s purpose is to protect local public entities and public employees from liability arising from the operation of government. By providing immunity, the legislature sought to prevent the diversion of public funds from their intended purpose to the payment of damage claims. The Act grants only immunities and defenses—it does not create any new duties but, rather, merely codifies those duties that existed at common law, to which the subsequently delineated immunities apply. Unless an immunity provision applies, governmental units are liable in tort to the same extent as private parties.

The specific issue in this case centers around the interaction between sections 4-102 and 2-202 of the Tort Immunity Act. Section 4-102 of the Act, the section upon which the New Lenox defendants rely and upon which the trial court based its ruling, is titled “Police protection,” and provides, in pertinent part, that: “Neither a local public entity nor a public employee is liable for failure to establish a police department or otherwise provide police protection service or, if police protection service is provided, for failure to provide adequate police protection or service, failure to prevent the commission of crimes, failure to detect or solve crimes, and failure to identify or apprehend criminals.” As the language of the statute indicates, section 4-102 is broad in scope and immunizes local public entities and public employees for, among other things, failing to provide adequate police protection or service. The phrases “police protection service” and “police protection or service”

are not defined in section 4-102 or elsewhere in the Tort Immunity Act but have been found in case law decisions to cover situations where, at the time of the conduct at issue, the police were involved in some policing function other than traditional law enforcement—such as trying to aid, assist, or rescue a person—or were involved in a community caretaking function. Section 4-102 does not contain a willful and wanton conduct exception and thus provides absolute or blanket immunity to local public entities and public employees. When absolute or blanket immunity applies, the claim against the local public entity and/or public.

Section 2-202 of the Act, on the other hand, the section upon which plaintiff relies, is titled, “Execution or enforcement of law,” and provides that “[a] public employee is not liable for his act or omission in the execution or enforcement of any law unless such act or omission constitutes willful and wanton conduct.” 745 ILCS 10/2-202 (West 2020). Unlike section 4-102, section 2-202 is narrow in scope and applies only if the public employee was actually executing or enforcing the law at the time of the acts or omissions at issue. The phrase “in the execution or enforcement of any law” is not defined in section 2-202 or elsewhere in the Tort Immunity Act but has been found in case law decisions to apply when the public employee is engaged in a course of conduct designed to carry out or put into effect a law. In addition, and again unlike section 4-102, section 2-202 contains a willful and wanton conduct exception and thus provides only limited or qualified immunity to public employees.

The question of whether a police officer or other public employee was executing or enforcing the law under section 2-202 of the Act or was providing police protection or service under section 4-102 is a factual determination that must be made based upon the unique facts and circumstances of each individual case and is ordinarily a question of fact that must be resolved by the trier of fact. The determination may be made by the trial court as a matter of law, however, when the facts alleged or established support only one conclusion.

ALKAFaweEN’S ARGUMENT: On appeal, Alkafaween argued that the trial court erred in finding that the New Lenox defendants had absolute immunity under section 4-102 of the Tort Immunity Act for Alkafaween’s tort claims and in granting the New Lenox defendants’ motion for summary judgment on those claims on that basis. Alkafaween asserted that the summary judgment motion should not have been granted because a genuine issue of material fact existed in this case as to whether the New Lenox police officers were providing police protection services during their encounter with Alkafaween, so as to trigger the absolute immunity provided under section 4-102 of the Act or whether the police officers were executing or enforcing the law during the encounter, which would trigger only the limited immunity provided under section 2-202 of the Act, with no immunity for willful and wanton conduct. According to the Alkafaween, a trier of fact could certainly find, based upon the evidence presented in the summary judgment supporting materials, that the New Lenox police officers were executing and enforcing the criminal trespass provisions when they took plaintiff away from the trespass location (the Hospital) and “dumped” Alkafaween back off in Orland Park, in an area that was unfamiliar to him. Such conduct, Alkafaween maintained, had nothing to do with aiding, assisting, or protecting him, a person the officers knew was experiencing a mental health crisis. Because of the alleged existence of a genuine issue of material fact, Alkafaween asked that the appellate court reverse the trial court’s grant of the New Lenox defendants’ motion for summary judgment and that it the remand this case for further proceedings on Alkafaween’s claims against the New Lenox defendants.

OFFICERS’ ARGUMENT: Conversely, the Officers argued that the trial court’s ruling was proper and should be upheld. The Officers asserted that after applying the case law concerning this issue and the undisputed facts in this case, the trial court correctly found that the Officers’ conduct fell squarely within the scope of section 4-102 of the Act. Although the Officers were initially dispatched to investigate a possible criminal trespass, they quickly pivoted to providing police protection or community caretaking services once it became apparent that Alkafaween was not trespassing at the hospital. In support of that assertion, the Officers point out that Alkafaween was not at any time detained against his will, taken into custody, arrested, searched, or handcuffed by the Officers. Instead, the Officers maintained that they repeatedly asked Alkafaween where he lived, where he wanted to go, and if they could call someone to give him a ride home; repeatedly assured Alkafaween that they were trying to help him find a ride; and eventually, with Alkafaween’s consent, gave him a ride to the New Lenox and Orland Park border. Therefore, the Officers requested that the appellate court affirm the trial court’s ruling granting summary judgment against Alkafaween’s tort claims.

FINDINGS: *The appellate court concluded that, after reviewing the plaintiff’s complaint, the materials submitted in support of and in opposition to the New Lenox defendants’ motion for summary judgment, and the legal principles raised in this case, a genuine issue of material fact exists as to whether the Officers were providing police protection or services at the time of their encounter with plaintiff, such that the absolute immunity provided in section 4-102 of the Act would apply to plaintiff’s tort claims against the New Lenox defendants, or were executing or enforcing the law, such that only the limited immunity provided in section 2-202 of the Act would apply to plaintiff’s claims.*

A). PRO-COMMUNITY SERVICE - ABSOLUTE IMMUNITY: *The Court reasoned that, on the one hand, some of the facts established in this case support a finding that the officers were providing police protection or service during the encounter. Those facts include that the officers did not arrest, detain, or handcuff plaintiff; that the officers kept the tone of their voices calm and conversational during the entire encounter; that the officers repeatedly assured plaintiff that they were trying to help him and repeatedly asked plaintiff where he lived and who they could call to give plaintiff a ride home; that an Officer told plaintiff that the officers could give him a ride part of the way to Orland Park, and plaintiff stated, “ya, that’s good”; that other than the wording of the initial dispatch, there was no indication that plaintiff was trespassing at the hospital; that plaintiff agreed to leave the hospital and go outside with the police and security guard and was apparently not trespassing; and that the responding officers’ supervising officer opined that the responding officers were performing a police protection service or community caretaking function when they drove plaintiff to Orland Park and dropped him off.*

B). PRO-EXECUTING OR ENFORCING THE LAW – QUALIFIED IMMUNITY: *The Court, however, further reasoned that other facts suggested that the officers were executing or enforcing the law during the encounter. Those facts include that the officers were dispatched to the hospital to investigate a criminal offense; that the hospital had apparently communicated to the police department that plaintiff was trespassing, which the officers knew or would have known meant that plaintiff was refusing to leave (see 720 ILCS 5/21-3(a)) (indicating that a person commits criminal trespass to real property when he, among other things, remains upon the property of another after being told to leave)); that when the Officers arrived, Alkafaween was being monitored by security officers, not by medical staff members of the hospital; that the Officers asked Alkafaween to step outside, and he complied with that request; that on more than one occasion, Alkafaween indicated that he would just stay at the hospital or that he was going to go back inside the hospital; that the security guards and/or the police officers told Alkafaween that he could not stay at the hospital or go back inside the hospital; that one of the officers stood in front of the hospital entrance so as to physically block Alkafaween from going back into the hospital; that the officers took him to a location of their own choosing that was unfamiliar to Alkafaween and that was away from the location of the possible trespass; that Alkafaween had no ability to get out of the police car on his own once he got inside the vehicle; that after Alkafaween left or was removed from the location, an Officer told the hospital staff members and a security guard that he was having one of the officers “dump” Alkafaween off near the Will County-Cook County border and that hopefully he would not “ping pong” back to the hospital; and that Alkafaween’s expert witness opined that the police officers were executing or enforcing the law during the entire encounter.*

CONCLUSIONS: *Based upon the facts presented, the Court concluded that a reasonable person could conclude that the officers were acting in a law enforcement capacity when they took plaintiff to Orland Park and dumped him off. Contrary to the New Lenox defendants’ implied assertion, the fact that the officers did not arrest Alkafaween was not dispositive of this issue. As the facts presented suggest, just as reasonably, that the officers handled the trespass complaint, in a law enforcement capacity, by choosing to remove Alkafaween from the location of the trespass, rather than by arresting him. Indeed, the Court determined that a reasonable person could find, based upon the fact that the officers chose to “dump” plaintiff—a person who was obviously experiencing mental health issues and was dressed in only a light coat and not wearing a hat, gloves, or socks—in the parking lot of a closed business in an unfamiliar area at nearly midnight in December when they knew he did not even have a cell phone, that the officers were not conducting “community caretaking.”*

According to the Court, the circumstances of this case do not clearly fall into one section of the Tort Immunity Act or the other. This was not a case, therefore, where only one conclusion could be reached from the supporting materials presented. Thus the Court concluded that the trial court erred in granting the New Lenox defendants’ motion for summary judgment on Alkafaween’s claims against the New Lenox defendants (counts I, II, and III of the second amended complaint).

The Appellate Court held that the circuit court erred in granting the defendant Officers’ motion for summary judgment because a genuine issue of material fact exists in this case that only a jury is empowered to decide.

RESULT: The appellate court reversed the trial court’s grant of summary judgment and remand this case for further proceedings.

QUIZ QUESTIONS FOR THE MONTH OF SEPTEMBER – 2026 - ALTERNATIVE

Qusai Alkafaween v. The Village of New Lenox, et al., 2026 IL App (3d) 250449, June 15, 2026.

1. In Illinois, can a governmental unit be held civilly liable for injuries they cause?
 - a. Yes.
 - b. No.

2. The Illinois Tort Immunity Act provides that Agencies and Officers are absolutely immune from civil liability for damages caused when police protection services are being provided.
 - a. True.
 - b. False.

3. The Illinois Tort Immunity Act provides that Agencies and Officers are absolutely immune from civil liability for damages caused when they are executing or enforcing any law.
 - a. True.
 - b. False.

4. Did the appellate court in this case decide whether or not the Officers were entitled to absolute or qualified immunity from liability as a result of their act of “dumping” Alkafaween off?
 - a. Yes.
 - b. No.

QUIZ ANSWERS FOR THE MONTH OF SEPTEMBER – 2026 - ALTERNATIVE

Qusai Alkafaween v. The Village of New Lenox, et al., 2026 IL App (3d) 250449, June 15, 2026.

1. In Illinois, can a governmental unit be held civilly liable for injuries they cause?

a. Yes. As this Court held, “Unless an immunity provision applies, governmental units are liable in tort to the same extent as private parties.
2. The Illinois Tort Immunity Act provides that Agencies and Officers are absolutely immune from civil liability for damages caused when police protection services are being provided.

a. True. Section 4-102 of the Act provides for absolute immunity from liability when Agencies or Officers are providing police protection services.
3. The Illinois Tort Immunity Act provides that Agencies and Officers are absolutely immune from civil liability for damages caused when they are executing or enforcing any law.

b. False. The Act only provides for qualified immunity when Officers are executing or enforcing a law. Section 2-202 of the Act, which is titled, “Execution or enforcement of law,” provides that “[a] public employee is not liable for his act or omission in the execution or enforcement of any law unless such act or omission constitutes willful and wanton conduct.” 745 ILCS 10/2-202.
4. Did the appellate court in this case decide whether or not the Officers were entitled to absolute or qualified immunity from liability as a result of their act of “dumping” Alkafaween off?

b. No. The Court did not determine which type of immunity the Officers were entitled. Rather, it held that a jury must decide whether the Officers would be entitled to absolute immunity for providing police services or only qualified immunity for executing or enforcing a law.