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## ***LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH***

**By Don Hays**

Month of December – 2024 - ALTERNATIVE

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## LAW ENFORCEMENT OFFICER TRAINING CASE OF THE MONTH

### Month of December - 2024 - ALTERNATIVE

#### Melissa Haligas v. City of Chicago, No. 22 C 313, 2024 WL 4026958, September 3, 2024.

**THE CASE:** Haligas' ex-boyfriend complained to the police that she was interfering with his court-ordered child visitation rights. The defendant officers arrested Haligas. Should the Officers be held liable for her arrest?

**FACTS:** Following their break-up, Haligas and her ex-boyfriend shared joint custody of their three-year-old son. On the day in question, the father arrived to pick up the child for his week-end visitation. Haligas explained that the child was sick and sleeping and that the father must wait in the lobby of her apartment building until the child wakes. Dissatisfied with this response, the father called the police and complained that Haligas was interfering with his child visitation rights. What followed was the basis of this case. [Please note that both Officers used body cameras to record the following incident.]

According to the Haligas the following events occurred. When the Officers arrived, the father showed Officer One a document on his cell phone that he claimed supported his accusation. Officer One found the document "confusing," but he declined the father's offer to email the document to him to review. The Officers proceeded to Haligas's apartment, where they accused her of violating the court order and threatened to arrest her and bring her to jail. Haligas asked the Officers to keep their voices down, explaining that her son was sick and was asleep. They refused and continued to threaten her loudly, even as she showed the Officers her son's bag, packed and ready to go to his father's home, and offered to show them the order to prove that allowing her son to awaken naturally before releasing him to his father was not inconsistent with its terms. The Officers declined her offer to produce a copy of the order and continued to threaten her with arrest and jail. Feeling threatened, Haligas asked the Officers to leave her apartment and told them she was going to call 911. Officer One then tried to grab Haligas's cell phone from her, striking her hand in the process. Officer One advanced toward Haligas as she backed away, then handcuffed her and pulled her to the floor, where she screamed in fear and pain. The Officers then grabbed Haligas's wrists and arms, pulling her to her feet as she shouted that they were hurting her. With Haligas handcuffed in her apartment, Officer Two brought the child downstairs to his father, allowing the two of them to leave.

Officer One led Haligas out of her apartment building and into a squad car, where she remained for hours in her nightgown. When the Officers' supervisor arrived on the scene and learned what had happened, he expressed shock, asked the Officers if their body cameras were rolling, then turned his own body camera off. Haligas was ultimately released without booking or charge. Thereafter, Haligas sued the Officers alleging false arrest, excessive force, and failure to intervene against the Officers. The Officers moved to dismiss the suit.

**ISSUE:** Should the District Court grant the Officer's motions for summary judgment? [By granting summary judgment, the District Court dismisses the case without allowing a jury to become involved.]

**SUB-ISSUE #1:** *Should the District Court grant the Officer's motion for summary judgment on the issue of an allegation of false arrest?* **THE LAW:** If the Officers had probable cause to arrest Haligas, her false arrest claim is barred. "An officer has probable cause to arrest if 'at the time of the arrest, the facts and circumstances within the officer's knowledge ... are sufficient to warrant a prudent person, or one of reasonable caution, in believing, in the circumstances shown, that the suspect has committed, is committing, or is about to commit an offense.'" It is an objective inquiry that turns on how a reasonable officer under the circumstances would assess the situation, without regard to the officer's subjective state of mind.

**FINDINGS:** The Officers argued that two offenses justified Haligas's arrest; Unlawful Visitation Interference and Resisting Arrest. Concerning the Visitation Interference allegation, the Court noted that the Officers relied upon the complaint of the Boyfriend (whose credibility was highly questionable) and a quick review of a "confusing" court order. Conversely, Haligas repeatedly denied the allegation and repeatedly offered to provide a copy of the order and to ask for aid from a social services person. Both offers the Officers summarily declined. While noting that the Officers were not required by law to investigate the Haligas' claims, in this case they should have. Under these circumstances, the District Court declined to grant the Officers' motion for summary judgment based upon probable cause to arrest for the offense of a visitation rights violation. Alternatively, the Officers argued that they had probable cause to believe that Haligas resisted a legal arrest. Here too, the Court found the facts to be in dispute. The Officers argued that Haligas resisted their attempt to place her under arrest; Haligas disagreed. Again, the Court declined to grant summary judgment to the Officers concerning the issue of probable cause to believe that Haligas resisted arrest. Therefore, the Court concluded that the Officers were not entitled to summary

judgment for Haligas' false arrest allegations because the facts did not clearly support a finding that the Officers had probable cause to believe that either the offenses of Visitation Interference or Resisting Arrest occurred.

**SUB-ISSUE #2:** *Were the Officers entitled to qualified immunity from Haligas's false arrest allegations?* The District Court noted that even absent probable cause, qualified immunity might shield the Officers from liability. **THE LAW:** Qualified immunity "protects public officials from liability for damages if their actions did not violate clearly established rights of which a reasonable person would have known." Once raised by defendants, as it has been here, it is the plaintiff's burden to demonstrate that it does not apply. Its application depends on two questions: "(1) whether the facts, taken in the light most favorable to the plaintiff, make out a violation of a constitutional right, and (2) whether that constitutional right was clearly established at the time of the alleged violation."

The Court noted that the first question was resolved above: viewing the facts most favorably to Haligas, her Fourth Amendment right to be free from unlawful seizure was violated. Concerning the issue of the offense of Resisting Arrest, the Court noted that the second question the dealt with the issue of whether a reasonable officer could have mistakenly believed that probable cause existed. In other words, the question is whether the Officers had "arguable probable cause." With respect to this second question, the Court concluded that a reasonable officer could have mistakenly believed that probable cause existed to arrest Haligas for resisting arrest because when the Officer instructed Haligas to put her hands behind her back, she shouted "No!" and brought her arms in toward her body. These actions, according to the Court, arguably could have appeared to a reasonable officer in these Officer's shoes to "impede[ ]" or "hinder[ ]" his attempt to arrest her, which has been held to run afoul of section 5/31-1(a).

The Court noted that Haligas failed to overcome the Officers' invocation of qualified immunity on the issue of probable cause to arrest for resisting arrest, which she could have done "by 'point[ing] to a clearly analogous case establishing a right to be free from the specific conduct at issue' or by showing that 'the conduct [at issue] is so egregious that no reasonable person could have believed that it would not violate clearly established rights.'" Given that Haligas did neither, and that the Officer was not unreasonable in thinking Haligas was resisting arrest, the Court declared that the Officers were entitled to summary judgment on her false arrest claim. [The Court noted that this was so even if the Officers were dead wrong to attempt to arrest her for unlawful visitation interference, because "Illinois law is clear that a person violates section 5/31-1(a) if he or she resists or obstructs even an unlawful arrest made by a known peace officer."]

**SUB-ISSUE #3:** *Should the Court grant summary judgment concerning Haligas' allegations that the Officers used excessive force against her?*

**FINDINGS:** The Court concluded that the body-worn camera (BWC) footage of Officers' arrest of Haligas after responding to complaint from her son's father that she was violating child custody order raised a plausible claim for excessive force, and thus Haligas' excessive force claim in § 1983 action against officers and city could proceed beyond a motion for summary judgment. The Court held that the footage showed the Officers advancing on Haligas while threatening to send her to jail and striking her hand when she indicated that she was going to call 911, after which the Officers forcefully restrained Haligas when she recoiled from their show of force and continued to restrain her as she screamed in pain and pleaded with them to release her. This was, the Court concluded, sufficient to allow a jury to decide whether the Officers used excessive force against Haligas.

**SUB-ISSUE #4:** *Were the Officers entitled to qualified immunity from Haligas's excessive force allegations?*

**FINDINGS:** Concerning this issue, the District Court concluded that material factual disputes prevented the Officers from prevailing on their qualified immunity defense at this point. According to the Court, if a jury concludes that Haligas' resistance was merely passive and that the force imposed via handcuffing was substantial, then the Officers have run afoul of Haligas' clearly established right to be free from excessive force. That is because precedent has settled that disproportionate force, in the form of unnecessarily rough or tight handcuffing, cannot be imposed upon a non-resisting or passively resisting, non-threatening suspect where a reasonable Officer would have been aware that the handcuffs were too tight. [See *Payne v. Pauley*, 337 F.3d 767, 780 (7th Cir. 2003)] ("[I]t was unlawful to use excessively tight handcuffs and violently yank the arms of arrestees who were not resisting arrest, did not disobey the orders of a police officer, did not pose a threat to the safety of others, and were suspected of committing only minor crimes.").

**CONCLUSION:** Consequently, the District Court therefore granted the Officer's motions for summary judgment concerning Haligas' False Arrest allegations but denied their motions for summary judgment concerning Haligas' Excessive Force allegations. A jury will decide whether or not the Officers used Excessive Force against Haligas.

## QUIZ QUESTIONS FOR THE MONTH OF DECEMBER – 2024

### Melissa Haligas v. City of Chicago, No. 22 C 313, 2024 WL 4026958, September 3, 2024.

1. Haligas sued the Officers for false arrest. In order to win such an action, Haligas had to show that the Officers lacked probable cause to place her under arrest.
  - a. True.
  - b. False.
  
2. Can the doctrine of Qualified Immunity shield Police Officers from liability against allegations of false arrest?
  - a. Yes.
  - b. No.
  
3. The Officers argued that they were entitled to qualified immunity from any allegations of their excessive use of force against Haligas while she was being placed under arrest. Did the District Court agree with this argument?
  - a. Yes.
  - b. No.
  
4. The body camera footage taken by the Officers in this case was used by the District Court in making its findings. By the year 2025, every police agency in Illinois must be using body cameras.
  - a. True.
  - b. False.

## **QUIZ ANSWERS AND DISCUSSION FOR THE MONTH OF DECEMBER – 2024**

### **Melissa Haligas v. City of Chicago, No. 22 C 313, 2024 WL 4026958, September 3, 2024.**

1. Haligas sued the Officers for false arrest. In order to win such an action, Haligas had to show that the Officers lacked probable cause to place her under arrest.
  - a. True.** As the Court held, “If the Officers had probable cause to arrest Haligas, her false arrest claim is barred. Stokes v. Bd. of Educ. of the City of Chi., 599 F.3d 617, 622 (7th Cir. 2010)
2. Can the doctrine of Qualified Immunity shield Police Officers from liability against allegations of false arrest?
  - a. Yes.** As the Court held, “Even absent probable cause, however, qualified immunity might shield the Officers from liability. Qualified immunity “protects public officials from liability for damages if their actions did not violate clearly established rights of which a reasonable person would have known.” Fleming v. Livingston County, 674 F.3d 874, 879 (7th Cir. 2012)
3. The Officers argued that they were entitled to qualified immunity from any allegations of their excessive use of force against Haligas while she was being placed under arrest. Did the District Court agree with this argument?
  - b. No.** The District Court concluded that material factual disputes prevented the Officers from prevailing on their qualified immunity defense concerning the issue of their alleged use of excessive force against Haligas.
4. The body camera footage taken by the Officers in this case was used by the District Court in making its findings. By the year 2025, every police agency in Illinois must be using body cameras.
  - a. True.** That is what the Illinois Legislature has decreed in the SAFE-T Act of 2021.