

86-772

timely/response 10, 1986

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St. Louis v. Prapronik

Cert to CA8 (Lay, Bright, Ross)

Resp was employed by petr as an architect. After he successfully appealed a suspension, he received unfavorable ratings, was transferred to a job with fewer responsibilities and was eventually laid off. He filed a §1983 suit against petr, claiming that petr and individual supervisors violated his First Amendment and due process rights. The jury exonerated the named defendants, but found the City liable. It awarded petr a total of \$30,000 damages plus attorneys fees. On appeal, CA8 reduced the damage award by \$15,000, since it found that resp had not made out a due process violation. It remanded for a reassessment of attorneys fees.

Petr's principal contention is that CA8 improperly upheld municipal liability, despite the jury's verdict in favor of individual defendants. It relies on Los Angeles v. Heller (1986) (suit against city property dismissed after jury returned verdict for police officer). CA8 found that Heller was distinguishable because persons other than the named defendants effected city policy. Petr also claims that CA8's decision conflicts with the views of what represents city policy for the purposes of municipal liability expressed in Pembaur v. Cincinnati (1986).

CA8's decision is not inconsistent with Heller; it may be somewhat inconsistent with Pembaur. In any event, it seems premature to take another case to clarify those opinions.

DENY

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December 28, 1986

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