

CITY OF NEWPORT et al. v. FACT CONCERTS, INC., et al.

certiorari to the united states court of appeals for the first
circuit

No. 80-396. Argued March 31, 1981 Decided

Respondents (an organization ^(licensed by pet'r City to) engaged in presenting ^{(certain} musical
concerts, ~~whose license to present certain concerts in~~
~~petitioner city was canceled,~~ and a promoter of the concerts)
brought suit in Federal District Court against the city and city
officials. Alleging, inter alia, a violation of their
constitutional rights under color of state law, ~~arising from the~~
~~cancellation of the license~~, respondents sought compensatory
and punitive damages under 42 U. S. C. § 1983. Without
objection, the court gave an instruction authorizing the jury
to award punitive damages against each defendant, ^(including the city.) and verdicts
were returned for respondents, which in addition to awarding
compensatory damages also awarded punitive damages ^{against} ~~that were~~
~~allocated among~~ ^{both} the individual officials and the city. The
city moved for a new trial, arguing ^(for the first time) that punitive damages could
not be awarded under § 1983 against a municipality, ~~and~~
~~challenging the punitive damages instruction for the first~~
~~time.~~ Although noting that the challenge to the instruction
was untimely under Federal Rule of Civil Procedure 51, the
District Court ^(considered and) rejected the city's substantive legal arguments
on their merits. The Court of Appeals affirmed, finding that

that the
city's
cancellation
of the
license
amounted
to

~~because the law concerning municipal liability under § 1983 was in a state of flux, and because no appellate decision had barred punitive damages awards against a municipality, the city's failure to object to the charge at trial, as required by Rule 51, could not be overlooked as plain error, seriously affecting the fairness, integrity, or public reputation of a judicial proceeding.~~ The court also expressed a belief that the challenged instruction might not have been error at all, and identified the "distinct possibility" that municipalities could be liable for punitive damages ^{under § 1983} in the proper circumstances.

on the theory that the charge itself was

Held:

1. The city's failure to object to the charge at trial does not foreclose ^{This Ct from reviewing} review of the punitive damages issue. Because the District Court adjudicated the merits, and the Court of Appeals did not disagree with that adjudication, no interests in fair and effective trial administration advanced by Rule 51 would be served if this Court refused to reach the merits. Nor ^{should} ^{here be} review limited to the restrictive "plain error" standard. ~~A court's interpretation of the contours of municipal liability under § 1983 cannot give rise to plain judicial error since those contours are currently in a state of evolving definition and uncertainty.~~ In addition to being novel, the punitive damages question is also important and appears likely to recur in § 1983 litigation against municipalities. Pp. 7-9.

, and the very novelty of the legal issue at stake counsels unconstricted review.

2. A municipality is immune from punitive damages under § 1983. Pp. 9-23.

Indeed, common law and existing law consistently declined to award punitive damages against municipalities.

^b (a) In 1871, when Congress enacted what is now § 1983, it was generally understood that a municipality, like a private corporation, was to be treated as a natural person subject to suit for a wide range of tortious activity, but this understanding did not extend to the award of punitive damages at common law. Nothing in the legislative history suggests that, in enacting § 1 of the Civil Rights Act of 1871, Congress intended to abolish the doctrine of municipal immunity from punitive damages. ^{If anything} ~~Instead~~, the relevant history suggests the opposite. Pp. 11-18.

^c (b) Considerations of public policy do not ^{support} ~~dictate~~ exposing a municipality to punitive damages for its officials' ^{the malicious or reckless conduct of} ~~bad faith actions~~. Neither the retributive nor the deterrence objectives of punitive damages and of § 1983 would be significantly advanced by ^{holding} ~~exposing~~ municipalities ^{liable for} ~~to~~ such damages. Pp. 18-23.

626 F. 2d 1060, vacated and remanded.

(a) In order to conclude that Congress meant to incorporate a particular immunity as an affirmative defense in § 1983 litigation, a court must undertake careful inquiry into considerations of both history and public policy. Pp. 9-11.