

No. 80-396 - City of Newport v. Fact Concerts, Inc.

This case comes to us by way of certiorari to the United States Court of Appeals for the First Circuit.

Respondent <sup>R ↓</sup> Fact Concerts is an organization licensed by the City of Newport <sup>^</sup> to present musical concerts. It and a promoter brought suit in federal court against the City and its officials. They alleged that the city's cancellation of their license, <sup>in 1975</sup> and hence of some scheduled performances, amounted to a violation of their constitutional rights under color of state law and they sought compensatory and punitive damages under 42 U.S.C § 1983. Without objection, the trial court gave an instruction authorizing the jury to award <sup>✓</sup> punitive damages against each defendant including the city. Verdicts, in fact, were returned for both compensatory and punitive damages. The city moved for a new trial, arguing that punitive damages could not be awarded against it under the statute.

The trial court noted that the subsequent challenge to the punitive damages instruction was untimely under Civil Rule 51, but it considered anyway, and rejected, the city's substantive legal arguments on their merits. The Court of Appeals affirmed.

In an opinion filed with the Clerk today, we hold first that, on the facts of this case, the city's failure to object to the charge at trial does not foreclose this Court from reviewing the punitive damages issue. The District Court adjudicated the merits and the Court of Appeals did not disagree with that adjudication.



The contours of municipal liability under the statute are currently in the state of evolving definition. In addition, the damages question is important and appears likely to recur in § 1983 litigation against municipalities.

We further hold that a municipality is immune from punitive damages under § 1983. We reach this conclusion after inquiry into considerations of both history and public policy. Nothing in the legislative history suggests that in enacting the Civil Rights Act of 1871 Congress intended to abolish the then existing doctrine of municipal immunity from punitive damages. Neither the retributive not the deterrence objectives of punitive damages and of § 1983 would be significantly advanced by holding municipalities liable for such damages.

The judgment of the Court of Appeals accordingly is vacated and the case is remanded for further proceedings consistent with the opinion that has been filed today.

I am authorized to state that Mr. Justice Brennan has filed a dissenting opinion based primarily on the proposition that the city's failure to object to the punitive damages charge at trial foreclosed<sup>s</sup> review of the punitive damages issue. He is joined in that dissent by Justice Marshall and Justice Stevens.