

No. 78-1779 OWEN v. CITY OF INDEPENDENCE, MISSOURI

This case is here from the Court of Appeals for the Eighth Circuit.

Respondent City of Independence discharged its Chief of Police. The Court of Appeals found that the acts of the officials involved in effecting the discharge were taken pursuant to official city policy and constituted a deprivation by the City of a constitutionally protected liberty interest of the Police Chief giving rise to a cause of action in his favor under 42 U.S.C. Sec. 1983 against the City and its officials. However, the Court of Appeals held further that the Chief of Police must be denied any relief against either the City or its officials because the officials acted in good faith and without malice. In that circumstance, the Court of Appeals held, a qualified immunity from liability was enjoyed not only by the officials but also by the City. We agree that the public officials enjoyed a qualified immunity but we reverse the judgment that the City also enjoyed a like immunity. We hold that a municipality has no immunity from liability under Sec. 1983 flowing from its constitutional violations and may not assert the good faith of its officers as a defense to such liability. Our reasons for differing between the City and its officials in this matter of immunity are stated at length in an opinion filed today with the Clerk.

Mr. JUSTICE POWELL, joined by the CHIEF JUSTICE, MR. JUSTICE STEWART and MR. JUSTICE REHNQUIST dissents and has filed a dissenting opinion.