



NELSON LAW FIRM, P.C.
ATTORNEYS AT LAW

Cane v. City of Livingston (verdict)

FEDERAL COURT

VERDICT: Defense, wrongful arrest.

A Billings jury (7 jurors) found that Livingston Officer Corey O'Neill did not unlawfully arrest Shari Cane. As instructed, it did not proceed to whether he falsely imprisoned her or whether his conduct was a cause of injury or damages. On 5/4/19 Cane left her residence in Livingston. A citizen called 911 and reported her walking in the middle of the street intoxicated. O'Neill was dispatched and arrived minutes later to find her standing on the sidewalk. He approached her with his car video running. When he asked for ID she said she did not bring it. The parties dispute whether she properly provided her name when asked. She said she was leaving and would not talk to O'Neill further. He told her not to leave and stopped her by grabbing her wrist after she ignored his commands. She began to physically resist O'Neill's attempt to arrest her. He reportedly conducted a "leg sweep" which caused her to fall face first to the ground. She contended that she fell face first on the sidewalk. Defendants contend that she fell on the grass. Officer Steve Kunnath arrived while O'Neill was arresting her and assisted. She was transported to detention where it decided that she needed to be taken to the hospital because she was requesting her pain and psych meds. At the hospital doctors discovered bruises on her arms, legs, and torso, a black eye, and a fractured C2 vertebrae. She had .356 BAC. She stayed in the hospital for 2 days.

Cane sued O'Neill, Kunnath, the City of Livingston, and City Attorney Jay Porteen alleging unlawful arrest under §1983, excessive force, and state law unlawful imprisonment. Magistrate Cavan granted summary judgment on excessive force and dismissed Porteen. He also dismissed Kunnath on summary judgment. He set the unlawful arrest and false imprisonment claims for trial. Cane asserted that O'Neill caused her broken neck and bruises. Cavan allowed these PI claims to go to the jury under the unlawful arrest claim over Defendants' objection.

Plaintiff's expert: LCWS Donna Delich, Livingston (video).

Defendant's experts: none.

No demand/offer. Jury request, \$500,000; jury suggestion, 0.

Jury deliberated less than 30 minutes 4th day.

Cane v. O'Neill, Kunnath, Livingston, and Porteen, CV-20-32-BLG, 10/27/22.

Jami Rebsom (Rebsom Law Firm), Livingston, and Suzanne Marshall (Marshall Law), Bozeman, for Cane; Harlan Krogh (Crist, Krogh, Alke & Nord), Billings, for O'Neill and Kunnath; Randall Nelson & Thomas Bancroft (Nelson Law Firm), Billings, for the City and Porteen (MMIA).