

Drive-by Litigation

by

David R. Myrland

Retaliatory Preparation For Municipal Tort Suits

– Not legal advice –

- ALL RIGHTS RESERVED -



DISCLAIMER:

- * **All this site offers is political opinion.** If you are going to go to court and are unsure of yourself, or at any time have questions about the law, seek an attorney's advice and representation. Nothing you will see or receive is intended as legal advice or as counseling over legal matters. All materials are intended to entertain by educating, and by illustrating certain approaches to interpreting legislation to which we all are subject. David Myrland has never claimed to be a licensed attorney. The sole description of what he offers is best termed "opinion" offered only as information he deemed important.
- * David Myrland does not condone or discourage participation in any activity examined here, and he invites everyone to share in his knowledge of the law and of the tendencies of government. All materials are political speech about governmental misenforcement of the law and about obtaining lawful remedy to compensate for it. It's just the law.
- * **END DISCLAIMER.**

Basic Necessities



- * You can't read too much case law.
- * Typing, writing style refinement, attention to detail and proper method of pleading.
- * The law and the rules provide for everything, no fringe tactics or theorizing.
- * Read as much case law under state/fed constitutional provisions securing human rights as you can possibly manage.
- * Learn rights, statute, procedure – In that order.

Learn from the Experts

- * Cite statutes and cases like judges do it.
- * Structure your civil briefs like winning attorneys structure theirs; write like they do.
- * Compile a list of reasons cases get overturned.
- * Articulate judicially, with power - A simple term like a *fortiori* will send 80-90% of attorneys to the law dictionary.
- * Watch open court proceedings in big cases – free lessons from winners, losers, and future judges.
- * Review complaints by prosecutors for form and content, eclipse their abilities while speaking the judge's language.

GOAL: Public servants claiming the 5th Amdt. at depositions in Rule 27 Action to Perpetuate Testimony. Really?*

- * Something happened that was **WRONG**, a public servant did it.
- * **FIRST**: The facts were recorded in detail in sworn statements or better. Notary, video tape under oath, contact information of witnesses.
- * FOIA for further evidence supporting allegations of wrongdoing.
- * Discover and complete your evidence.

Preparation



- * Learn parameters of immunity – qualified, judicial, absolute, sovereign, waivers of immunity, good faith defenses.
- * Brief your cause of action, summary judgment, default judgment, failure to state a claim, for your attorney.
- * Best Q's for discovery, explain on paper the evidence you feel proves your claim, think of what your attorney will need.
- * Keep your records in a neat chronological fashion.

Step 1: Responsibility & Diligence

- * Use the court system responsibly, stand firm on the truth and the law.
- * The gov't has already faced most arguments based on basic principles or procedures. Choose your battles wisely.
- * Understand and prepare to meet your foe in federal court.
- * Preparation includes choosing an attorney, but first – HAVE FUN!!!

Resources



- * Begin with ability to follow through, enough cash for printing, copying, mailing, time away from daily life to handle writing pleadings, research time, appearances – Now do you see why you need an attorney?
- * Understand your limitations, pass the torch after preliminary due diligence and preparation.
- * Think of the depositions.
- * Pro se should team up on a good case. Respect the technical aspect of each step.

Fed/State Criminal Codes

18 USC § 4 **Misprision of felony.** *Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known* the same to some judge or other person in civil or military authority under the United States, *shall be fined under this title or imprisoned not more than three years, or both .*

Seen any?

Fed/State Criminal Codes

Washington state: RCW 9A.80.010 **Official misconduct.**

(1) *A public servant is guilty of official misconduct if* , *with intent to* obtain a benefit or to *deprive another person of a lawful right* or privilege:

(a) *He intentionally commits an unauthorized act* under color of law; or

(b) He *intentionally refrains from performing a duty* imposed upon him by law.

(c) *Official misconduct is a gross misdemeanor* .

Seen any?

A criminal statute's been violated; I'm shocked!

- * Have you read your state's criminal code?
- * Have you viewed the most frequently violated federal statutes?
- * Which state statutes were violated, who violated them, where's the leverage, where's the money, the laundry?
- * Laundry, bosses, traverse with a chainsaw?
- * Partial payment = evidence of crime.

The goal, remember?

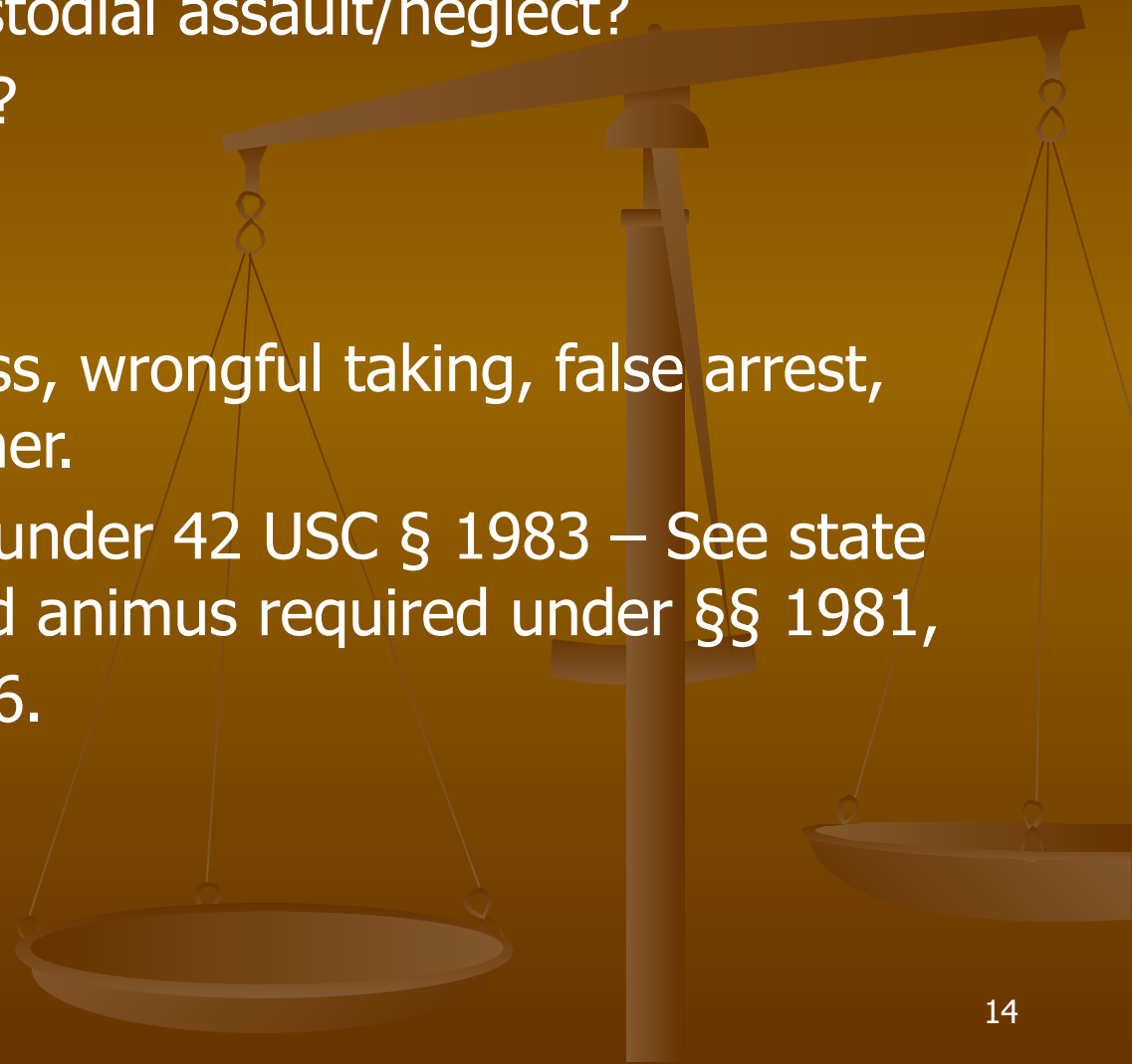
- * Who are you suing? Municipality, judge?
- * What is municipal policy? Who makes or establishes policy?
- * Failure to act to correct, immunity issues, failure to properly train, lack of jurisdiction, other.
- * Gear all preparation towards the main actors, policy makers, most telling docs, etc.
- * Write docs in advance, FOIA first, discovery.

Traverse with a chainsaw?

- * Identify losses - If no property rights have wrongfully been obtained by gov't yet, make partial payment in FRNs; laundry.
- * All losses are fruits of wrongful acts or *crime*; the more the merrier (after the fact of course).
- * Incur affordable damages to point at later, stave off collection by distraint or penal sanctions.
- * Keep your receipts (build the record).

Your Cause of Action

- * Excessive force or custodial assault/neglect?
- * Malicious prosecution?
- * Trespass?
- * Privacy?
- * Procedural due process, wrongful taking, false arrest, denial of counsel, other.
- * Statute of limitations under 42 USC § 1983 – See state law. Race/class based animus required under §§ 1981, 1982, 1985, and 1986.



Build Your Case



- * Research case law pertaining to your cause of action, what are the thresholds, the available defenses, creating policy out of nothing. Prior § 1983 decisions.
- * Pleading 42 USC §§ 1981, 1982, 1985 and 1986.
- * 42 USC § 1983 suit = Plain Const'l Tort
- * Isn't that simple?

Step 1: Evidence is preserved

- * Record's built with an eye on 42 USC action.
- * Disclosure's been had, affidavits are written, identity of actors is known and policy makers know about transgression by public servant.
- * All evidence can be viewed in one place – What does it reveal??? Civil / criminal??? Well?
- * If the evidence supports both, allege both – it's just the law, don't sweat it!

Step 2: State criminal violations

- * What happened?
- * Which state criminal statutes were violated?
- * Which parts of the evidence are your proof?
- * Are all essential elements of the charging statute met by the conduct? Be a good prosecutor.
- * Be agile but not excessive, be better than our prosecutors.

Options: Civil v. Criminal

Civil

File suit and do battle, file motions and argue back and forth giving the judge a position from which to deprive you of procedural due process. Wait to engage in civil litigation until the laundry pile is huge and overbearing.

Criminal

Gather evidence, formulate claim for damages based on evidence, draft criminal complaint which draws upon evidence most damning, file the complaint with the civil or judicial authority most beneficial to you, walk away.

Exhibits = Laundry

- * The judge, cop, prosecutor wants a sworn statement about their misconduct on court record – Exhibit city.
- * Abuse it, take it everywhere, tell everyone (later).
- * Create laundry – Ask the question they can't afford to answer, sue for lease in small claims, complain . . .
- * Shift burden whenever possible, plead affirmatively upon presumption of your correctness.
- * Create laundry – Develop evidence in court under Civil Rule (County Superior Court, U.S. Dist Court) to perpetuate testimony (Rule 27). Better to save this.
- * Collect, save, hoard, organize, catalog, and preserve laundry – It's a good thing!

Step 2 cont'd – Put it to use

- * Research state criminal code for violated statutes.
- * Write and file realistic criminal complaint in state court (which one?) alleging violations by actors and asking for their arrest and imprisonment.
- * The criminal code exists everywhere – Right?
- * Just ask Tennessee judge David Lanier. **NOTE: Sue for declaratory relief as leverage.**
- * State first, fed later w/state CC attached – ha ha!

Crimes - state

- * Official misconduct – Excessive bail, erroneous warrant, violation of established court rule, etc.
- * Trespass – CO, photos taken on private land.
 - Extortion – OR, false charges upheld by county court.
 - *Unlawful imprisonment – Benn to jail?
- * Stalking – Sweet, Shasta County, CA, false charges, other.
- * Voyeurism – GA, photo into home by county inspector.
- * Various – Cop's ID, no oath, warrantless or false arrest, etc.

Laundry (revisited)

- * "I'm a judge, cop, or prosecutor who's been named in a criminal complaint already on court record detailing the elements of my conduct in relation to statutes which send me to jail for it."
- * "There's no grounds for the fines and arrest I authorized or conducted against Joe Citizen."
- * "The prosecutor used my court to make money Joe didn't really owe and now I'm in trouble for it."
- * "Joe might complain to the Comm'n on Judicial Conduct."
- * "The corruption of my friends is the only thing between me and federal prison. I hope the DOJ is gentle."

Summary of Step 2:

- * Affidavits of victims and witnesses are preserved as notarized statements. Step 1
- * Evidence base is assembled, organized, and analyzed for reference in state CC. Step 1
- * Facts supported by competent evidence are *sifted* through state criminal statutes.
- * State CC is filed with most damning evidence attached thereto for laundry effect. Aff.Prej.
- * Do I feel lucky? Next judge, prosecutor, cop, inspector, etc.? It's only step 2!!!

Step 3: Federal criminal violations

- * Top 10 (maybe) – 18 USC §§ 241, 242, 876(d), 880, 1341, 1343, 1623, 1951(a), 1962(c), 1962(d), name the municipality.
- * Splash of 18 USC §§ 3, 4. Reason it out.
- * Very broad language, usually much easier to meet essential elements than with state statutes.
- * Cover letter to DOJ w/Complaint, fish in barrel.
- * Exhibit – State CC (criminal complaint); laundry.

Tactical

- * 3 branches – Only judicial and executive know about state CC filed in state court.
- * Prosecutors and judge (defendants) think they're all alone with nobody to answer to, they'll handle the matter *in house*.
- * You are about to take this game of *laundry* and start playing *Bosses* with it.

Step 4: Bosses (Risk Mgmt.)

- * DOJ complaint with state CC attached (w/exhibits) is a laundry monster already out of control before this point where you open eyes by striking wallet -
- * Serve the county/city council's risk management department with a claim for damages and cover letter on top of DOJ complaint (+ attachments) before they know of the state CC, demanding large sums. Mun. immunity.
- * In your cover letter you advise that the prosecutors know absolutely nothing about the DOJ complaint but have been served with state CC. This gives the council the opportunity to surprise the executive branch with their dirty work (laundry) when the prosecutors think only the state CC exists.

Step 5: Civil Rule 27

- * Municipal policy is established through policy makers' failure to intervene or correct. They're on notice.

HIRE AN ATTORNEY

- * File FRCvP 27 action (U.S. Dist. Court) to perpetuate testimony to get depositions and other discovery helpful to proving tort.
- * Fifth Amendment claims in civil actions. Depose county or city council first, making them feel uncomfortable for what prosecutors did. Bosses
- * After further proof is gathered amend complaint to one seeking damages for tort proven through discovery; infer guilt.
- * More depositions? Summary judgment?

Deal in political/personal discomfort

- * No servant wants to talk about political laundry.
- * Nobody likes facing criminal charges.
- * Criminal complaints are politically undesirable.
- * Depositions make derelicts uneasy.
- * Make them bathe in their incompetence.
- * Used to level the playing field in an existing case.
- * Used to expunge the record, void the judgment, end careers, suspend licenses to practice. Run for office?

State violations - examples

- * Peter Nault – RCW 9A.80.010 Official Misconduct. King County District Court (Seattle Division, #Y- 4- SD – 1004, filed 12/22/04 at 11:37 a.m.), 516 3rd Ave, Seattle, WA 98104-2385. **Hearing date** - Friday, 4/8/05 at 10 am, King County Courthouse in Room #E-341.
- * Martha Gandy & Gerald Benito – Barratry, CA Pen. Code § 158.
- * Police officer refuses to produce photo ID in traffic stop, in WA.
- * *The Constitutionalist of Monte Cristo*. Small claims
- * Judge w/no oath signs arrest warrant, in WA. RCW 42.20.030
- * Violation of court rule, failure to dismiss, arrest by parking aid – It's a target rich environment, it's American to complain. We just ganged up on them over it!

- The End -

David R. Myrland

- Not legal advice -

-ALL RIGHTS RESERVED -

Knowledge is power!!!

