

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DEANNA COPELAND,)	No. ED101012
)	
Plaintiff/Appellant,)	Appeal from the Lincoln County
vs.)	Circuit Court
)	Honorable David H. Ash
LUCAS WICKS,)	
)	
Defendant/Respondent.)	Filed: January 27, 2015

The plaintiff mother, Deanna Copeland, appeals the judgment entered by the Circuit Court of Lincoln County granting summary judgment in favor of the defendant, Detective Lucas Wicks. The mother sued the detective seeking damages pursuant to 42 U.S.C. sec. 1983 for illegal seizure of her person in violation of her constitutional rights and damages for malicious prosecution.

APPEAL TRANSFERRED TO THE SUPREME COURT.

DIVISION ONE HOLDS: As to the mother’s section 1983 claim, we conclude that the detective’s probable-cause statement, when corrected of misstatements, supported probable cause to believe that the mother had committed a crime against the child resulting in the child’s injury, and that the detective is entitled to qualified immunity. We would affirm the trial court’s grant of summary judgment in favor of the detective as to the section 1983 claim.

As to the mother’s malicious-prosecution claim, however, we are compelled to reach a different result. Federal cases analyzing section 1983 claims and Missouri cases analyzing state malicious-prosecution claims define the term “probable cause” differently. Missouri also employs a different approach to official immunity than the federal courts employ with qualified immunity. As a result, we would reverse and remand the trial court’s grant of summary judgment to the defendant in connection with the malicious-prosecution claim. However, because of this anomalous result, we transfer the case to the Missouri Supreme Court due to its general interest and importance and for reexamination of existing law.

Opinion by: Lawrence E. Mooney, P.J. Clifford H. Ahrens, J., and Glenn A. Norton, J., concur.

Attorney for Appellant: John D. James

Attorney for Respondent: Joel D. Brett

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