

The Factual Allegations Of The Plaintiffs

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Introduction:

It is a court action for damages caused by a violation of the Constitution of the United States by the defendants who exhibited unlawful use of military force and, thus, confined and seized plaintiffs within an armed perimeter. This aggressive conduct violated both the Fourth Amendment and a federal statute, i.e., the Posse Comitatus Act. The plaintiffs argued that the use of military force without lawful authority resulted in an unlawful seizure of their persons. The plaintiffs held the complaint to state a claim upon which the relief was to be granted.

The plaintiffs include an armed group of Indians; they attacked the Pine Ridge Reservation at Wounded Knee with the purpose of ousting the elected tribal government. The defendants were either federal officials or military personnel. They intervened in the civil matter to stop the armed group from taking over the elected tribal government. The case came as an appeal due to the dismissal for failure to state a claim in the first attempt; the plaintiffs were given forty days to apply with a new application. Therefore, the factual allegations of the plaintiffs were accepted for the present purposes in the case.

Analysis

The plaintiffs presented three different types of claims in this case:

Firstly, the plaintiffs claimed that they were unlawfully and forcefully confined and seized within an armed perimeter. It violated their right to free movement and travel. The actions of the defendants were also found contrary to the Fourth Amendment.

Secondly, the plaintiffs claimed that ground and aerial surveillance was unreasonably implemented on them. It was unreasonable because the defendants carried out or attempted to carry out all of these actions by means of felonious and unconstitutional use of the Air Force and the United States Army.

Thirdly, the plaintiffs claimed to be assaulted by the defendants. They claimed to be deprived of property and deprived of life at one instance contrary to the rights provided to them by virtue of the fifth and eighth Amendments of the Constitution of the country. Again, the plaintiffs claimed that the defendants exhibited unlawful use of military force and, thus, confined and seized plaintiffs within an armed perimeter.

All three of these claims were viewed using the Posse Comitatus Act of 1878. According to this Act,

the use of the army and air force as posse comitatus is punishable unless the use is expressly authorized by the Act of Congress of the Constitution. If laws are executed otherwise, the person will be punished with a fine of not more than ten thousand American dollars and imprisonment of not more than two years, or a combination of both.

The first two sets of the claims by the group of plaintiffs gave rise to the question of whether a seizure or search (whether ground or aerial), under the Fourth Amendment of the Constitution, can be rendered unlawful. It is worth mentioning here that the search or seizure is otherwise permissible by law. Furthermore, the factor of the use of military personnel and equipment has been added to the scenario. It is believed that certain limitations in the use of military force for achieving a purpose of civil law are embodied by the decisions of the Supreme Court, certain acts of Congress, and the Constitution itself. They also embodied, under the Fourth Amendment, that the seizures and searches exceeding the limitations are considered unreasonable. (Bissonette v. Haig, 1985)

The factor of unreasonableness of the seizure is determined by balancing the interests for and against the act. In the general context, freedom of movement, the interests of individuals in privacy, and others are arrayed against a seizure. In this case, the factor of deadly force has been added to the seizure. Moreover, in the context of this case, the opposing interests are not strictly individual but governmental and societal in nature. These opposing interests are special threats to the constitutional government in the scenario of the employment of military force for enforcing civil law. Government interests are weighed in the balance of the Fourth Amendment. In a typical situation, the interests of an individual are weighed against that of the government. On a lesser scale, enforcement of civil law using military force indicates that the use of force has been given in the hands of persons who are not capable or trained to hold such rights.

The impact of the case on plaintiff and defendant is far-reaching. The court could not find any breach of direct authority concerning the private right of action by the defendants in this case. Moreover, although the district court decided that the activity had violated the provisions of the Posse Comitatus Act of 1878, according to the appeal, no such action was taken by the defendant. Similarly, the due process clause of the case has also been rejected by the courts due to a lack of novel authority.

Summary and Policy Implications

There are three claims by the plaintiffs in this case, i.e., (I) unlawfully and forcefully confinement and seizure within an armed perimeter, (II) ground and aerial surveillance were unreasonably implemented on them, and (III) the plaintiffs claimed to be assaulted as well as deprived of property and deprived of life at one instance contrary to the rights provided to them by virtue of the fifth and eighth Amendments of the Constitutions of the country. The Posse Comitatus Act of 1878 is applied to this scenario. The factor of unreasonableness of the seizure is determined by balancing the interests for and against the act.

The decision of this case impacts the use of military force in the enforcement of civil law. The plaintiffs argued that the use of force to seize and confine them within an armed perimeter was unlawful because a statute law and the Fourth Amendment were violated.

Future practices within the area covered will be impacted by the implementation of the law. Law enforcement agencies have been given the direction not to use military force or personnel for the purpose of enforcing civil law. This implies that civil law has to be kept separate from military rules. The reason behind this lies in the fact that both civil laws and military rules work in different domains. Mixing or merging the two together in order to enforce law and order in the country will not be possible. Therefore, the outcome of this case is a clear indication towards keeping the two domains separate, i.e., military force and personnel must not be used in the enforcement of civil law despite having an armed situation.

The outcomes of this case are of great importance to the practitioners. It guides them towards the law-making process from the point of view that civil laws and military rules are two separate domains; they have different law enforcement criteria. Therefore, military resources must not be used for the purpose of implementing civil laws. The military force and personnel are developed to be kept on the borders, and they must be brought within the boundaries of the country unless there is a civil war or a similar movement is prevailing within the country. Thus, the outcome of the case provides the baseline for the practitioners to develop civil laws in a manner that they are rigorously implementable in times of need.

The impact of the outcome of the case on the citizens also lies in the quadrant of law enforcement. (Posse Comitatus Act, 1878) They are provided with several fundamental rights and civil liberties by virtue of the Constitution. These citizens must not be deprived of these rights under the Fourth Amendment. Therefore, the court granted the claim of the plaintiff within this context. The use of military force and personnel is only possible in dire situations such as civil wars. As per the statute of the United States, using military force otherwise is a felony because it is a rigorous exercise, which means the citizens are deprived of their fundamental rights. Therefore, the outcome of this case is critically important in providing as well as elaborating the context of the fundamental rights of the citizens whilst using military force and personnel for enforcement of civil laws.

The current laws in the context under discussion are clear but not comprehensive. Therefore, a few policy changes can be made. For instance, army personnel are immune to personal liability for damages. Therefore, the defendants were given the opportunity to make a claim of immunity on remand. Secondly, despite the fact that the plaintiffs claimed that the actions were unreasonable because they violated the Posse Comitatus Act of 1878, as expressly given in other parts of the law. However, the tribal government itself asked for military intervention; it comes as a good defence for the defendants, and thus, the traditional limit on the use of military force and personnel in the enforcement of civil laws is pushed forward. Thus, policy implications in these contexts need to be reviewed, and appropriate amendments must be proposed in order to keep the traditional limit on military intervention within the civil matters of the country intact.

Conclusion

The use of military force and personnel for the enforcement of civil laws is limited. Both of the enforcement laws have different domains. The citizens are deprived of their fundamental rights and civil liberties during military intervention. Moreover, the military personnel are immune from personal liability for damages. Similarly, presenting the defence of the tribal government's plea to intervene will also give the army officials an edge in this case. Therefore, changes must be made in the laws of the government by virtue of amendments in the required areas. Meanwhile, military intervention in civil matters must be kept to the traditional limit.

References

Bissonette v. Haig, 776 F.2d 1384 (8th Cir. 1985).

<https://law.justia.com/cases/federal/appellate-courts/F2/776/1384/25148/>

Posse Comitatus Act, 18 U.S.C. § 1385.

<https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title18-section1385>