

Section B

The Interplay Between Federal Courts & State Prosecutions

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Title: ***The Interplay Between Federal Courts & State Prosecutions – Issues in Civil Rights Cases***

1.0 Hour CLE

OUTLINE

- I. Intro: *Doe v. Bull*: The ACLU's juvenile "sexting" civil rights case. What happened, and a brief update on the state of the relevant law.
- II. Taking a larger view: Potential Federal Civil Rights Case Consequences of State Criminal Cases: Estoppel and Abstention Issues
 - a. Issue Preclusion/Collateral Estoppel
 - i. *Migra v. Warren Bd. of Ed.*, 465 U.S. 75 (1984)
 - ii. *Allen v. McCurry*, 449 U.S. 90 (1980)
 - iii. Preclusive effect of state court judgment is a matter of state law, which federal courts must apply.
Devan v. City of Des Moines, 767 F.2d 423 (8th Cir. 1985)
 - iv. Before issue preclusion may now be employed in any case, these four prerequisites must be established:
 1. the issue concluded must be identical;
 2. the issue must have been raised and litigated in the prior action;
 3. the issue must have been material and relevant to the disposition of the prior action; and
 4. the determination made of the issue in the prior action must have been necessary and essential to the resulting judgment.
Hunter v. City of Des Moines, 300 N.W.2d 121, 123 (Iowa 1981); *Grant v. Iowa Dept. of Human Servs.*, 722 N.W.2d 169 (Iowa 2006) (rehearing denied); *Employers Mut. Cas. Co. v. Van Haafan*, 815 N.W.2d 17 (Iowa 2012).
 - v. Discussion of impact of specific actions:
 1. Alford pleas
 2. Motions to suppress
 3. Motions to dismiss

4. Guilty pleas
 5. Conviction following trial
 6. Conviction later reversed
 7. Not guilty finding
- vi. Discussion as to specific torts:
 1. False arrest and false imprisonment
 2. Assault and battery
 3. Unlawful search
 4. Denial of medical care
 5. First Am. retaliation
 - vii. Offensive use by criminal defendants?
 - viii. Note this is different from res judicata.
- b. Younger abstention: ongoing criminal proceedings
 - i. Example: How this played out in the sexting case
 - ii. Note we are not focusing today on three other kinds of abstention: Burford, Pullman, and Colorado River.
 - c. Appropriately protect/advise clients in criminal cases about these issues
 - i. Investigation and documentation
 - ii. Being strategic about what and how you litigate issues
 - iii. Paying attention to civil statute of limitations
 - iv. Caveat: We're focusing on federal civil rights actions today; other considerations apply to protect criminal defendant against subsequent civil actions against him or her by the victim.
- III. Close: *Goldsmith v. Adams Co.*: The ACLU's free speech retaliation case having to do with a social media post criticizing local law enforcement that resulted in criminal harassment charges.
 - IV. Questions/Discussion: Now or later (I love to chat, collaborate, and consult. Please call or email me at the above number and email address.)