

Civil Actions for False Imprisonment

False imprisonment is the unlawful restraint of a person without consent or legal justification. False imprisonment can be committed by words, acts, or by both[i]. The common law tort of false imprisonment is defined as an unlawful restraint of an individual's personal liberty or freedom of movement[ii]. In order to constitute the wrong it is not necessary that the individual be actually confined or assaulted[iii].

It is to be noted that, there is no necessity in a false imprisonment case to prove that a person used physical violence or laid hands on another person. It is sufficient to show that at any time or place the person in any manner deprived another person of his/her liberty without sufficient legal authority[iv].

False arrest is sometimes used interchangeably with false imprisonment. False arrest is the unlawful violation of the personal liberty of another consisting of detention without sufficient legal authority. In order to establish a false arrest claim, the person detained must prove that the arrest is unlawful and such unlawful arrest resulted in injury. An arrest is unlawful when the police officers in question did not have probable cause to make the arrest[v].

An arresting officer who fails to take the arrested person before a court or magistrate within a reasonable time or without unnecessary delay is guilty of false imprisonment. Similarly, an officer who arrests a person without a warrant is liable for false imprisonment by detaining the prisoner an unreasonable time[vi].

Generally, false arrest is one of several means of committing false imprisonment. False arrest describes the setting for false imprisonment when it is committed by a peace officer or by one who claims the power to make an arrest. Thus, a tort action for false imprisonment based on false arrest against a person who is not a peace officer implies that the detention or restraint to support the tort was done by one who claims the power of arrest[vii].

However, false arrest is almost indistinguishable from false imprisonment[viii]. The only distinction lies in the manner in which they arise. False arrest is merely one means of committing a false imprisonment. Whereas, false imprisonment is committed without any thought of attempting arrest[ix].

The principal element of damages in an action for false imprisonment is the loss of freedom. Sometimes, a court also takes into account the fear and nervousness suffered as a result of the detention[x]. The tort of false imprisonment involves an unlawful restraint on freedom of movement or personal liberty. Therefore, two essential elements to constitute false imprisonment are[xi]:

Detention or restraint against a person's will,
Unlawfulness of the detention or restraint.

Whereas, after liability is established for false arrest, the person who suffered may recover nominal damages as well as compensation for mental suffering, including fright, shame, and mortification from the indignity and disgrace, consequent upon an illegal detention[xii]. However, in a suit for false arrest and false imprisonment, a

person cannot recover attorney's fees incurred or loss of earnings suffered while defending an underlying criminal action[xiii].

The elements to be considered by the jury in awarding compensatory damages in a false imprisonment case are physical suffering, mental suffering and humiliation, loss of time and interruption of business, reasonable and necessary expenses incurred, and injury to reputation[xiv]. However, it is to be noted that a mere loss of freedom will not constitute false imprisonment[xv].

In a suit for false imprisonment, the damages award may include compensation for loss of earnings while imprisoned, for bodily and mental suffering caused by the imprisonment, and for expenses incurred in securing discharge from restraint including a reasonable attorney fee[xvi].

The measure of damages for false imprisonment is a sum that will fairly and reasonably compensate the injured person for the injuries caused by the wrongful act including any special pecuniary loss which is a direct result of the false imprisonment[xvii]. A jury can award punitive damages in a false arrest or imprisonment case, if the requisite level of malice or other requisite mental state is established.

All persons who personally participate or cause an unlawful detention are held to be liable. Similarly, persons other than those who actually cause an imprisonment may be held jointly liable with others, as instigators or participants. However, passive knowledge or consent to the acts of another, or acting on a superior's order, is not sufficient to make a person liable for false imprisonment.

It is to be noted that the jail officials are also held liable for false imprisonment for holding a person for an unreasonable time. A jail official is liable for false imprisonment if s/he knows that an arrest was illegal and that there is no right to imprison the person so arrested.

The liability of a principal for the act of an agent in causing a false arrest or imprisonment depends upon whether the principal previously authorized the act, or subsequently ratified it, or whether the act was within the scope of the employee's or agent's employment[xviii]. However, an employer will not be held liable for false imprisonment for the actions of an employee which are outside the scope of employment.

In order to avoid liability in an action for false imprisonment, a person must establish that s/he did not imprison the other person or s/he must justify the imprisonment. The presence of probable cause for imprisonment is a defense if it constitutes reasonable grounds for acting in defense of property or making an arrest without a warrant. A person is not liable for false imprisonment, if the person restrained is a child under the age of seventeen upon certain conditions. However, contributory negligence is not considered a defense if the wrong is something more than mere negligence[xix].

A false imprisonment action cannot be maintained if a person is properly arrested by lawful authority without a warrant. In order to justify an arrest without a warrant, the arrestor must proceed as soon as may be to make the arrest. Therefore, a private

person can arrest another for a public offense committed or attempted in his/her presence[xx].

Certain officials and professionals are exempted from civil liability for false imprisonment under certain circumstances. They are:

Judicial officers;
Government officials entrusted with judicial functions;
Attorneys;
Physicians.

A judicial officer who has jurisdiction of the person and of the subject matter is exempted from civil liability for false imprisonment so long as the judge acts within that jurisdiction and in a judicial capacity[xxi]. Similarly, officers in other government departments are also exempted from liability for false imprisonment whenever they are entrusted with the judicial exercise of discretionary power. Likewise, an attorney is also protected from personal liability for false imprisonment if s/he acts in good faith on behalf of his/her client. It is to be noted that physicians who give evidence in proceedings to determine sanity are also immune from liability for false imprisonment.

In the case of false imprisonment, the plaintiff has the burden of proving the false arrest. The plaintiff in a false imprisonment action must prove that the defendant proximately caused the injuries for which the plaintiff seeks damages[xxii].

[i] Dietz v. Finlay Fine Jewelry Corp., 754 N.E.2d 958 (Ind. Ct. App. 2001).

[ii] Pechulis v. City of Chicago, 1997 U.S. Dist. LEXIS 11856 (N.D. Ill. Aug. 7, 1997).

[iii] Whitman v. Atchison, T. & S. F. R. Co., 85 Kan. 150 (Kan. 1911).

[iv] Pechulis v. City of Chicago, 1997 U.S. Dist. LEXIS 11856 (N.D. Ill. Aug. 7, 1997).

[v] Landry v. Duncan, 902 So. 2d 1098 (La.App. 5 Cir. Apr. 26, 2005).

[vi] Dagna v. White, 45 Cal. 2d 469 (Cal. 1955).

[vii] Rife v. D.T. Corner, Inc., 641 N.W.2d 761 (Iowa 2002).

[viii] Kraft v. Bettendorf, 359 N.W.2d 466 (Iowa 1984).

[ix] Harrer v. Montgomery Ward & Co., 124 Mont. 295 (Mont. 1950).

[x] Pitts v. State, 51 Ill. Ct. Cl. 29 (Ill. Ct. Cl. 1999).

[xi] Ette v. Linn-Mar Cmty. Sch. Dist., 656 N.W.2d 62 (Iowa 2002).

[xii] Barnes v. District of Columbia, 452 A.2d 1198 (D.C. 1982).

[xiii] Id.

[xiv] Jenkins v. Pic-n-Pay Shoes, Inc., 1985 Tenn. LEXIS 536 (Tenn. July 15, 1985).

[xv] Gee v. State, 21 Ill. Ct. Cl. 573 (Ill. Ct. Cl. 1954).

[xvi] Phillips v. District of Columbia, 458 A.2d 722 (D.C. 1983).

[xvii] Sindle v. New York City Transit Authority, 64 Misc. 2d 995 (N.Y. Sup. Ct. 1970).

[xviii] Sears, Roebuck & Co. v. Steele, 23 Tenn. App. 275 (Tenn. Ct. App. 1939).

[xix] Aiken v. Holyoke S. R. Co., 184 Mass. 269, 271 (Mass. 1903).

[xx] Hill v. Levy, 117 Cal. App. 2d 667 (Cal. App. 1953).

[xxi] Bahakel v. Tate, 503 So. 2d 837 (Ala. 1987).

[xxii] Fischer v. Famous-Barr Co., 618 S.W.2d 446 (Mo. Ct. App. 1981).