

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CATHERINE SIMMONS,

Plaintiff-Appellant,

v

DARRIN GRANDISON,

Defendant-Appellee.

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UNPUBLISHED

June 14, 2012

No. 304633

Wayne Circuit Court

LC No. 09-025673-CZ

Before: GLEICHER, P.J., and M. J. KELLY and BOONSTRA, JJ.

PER CURIAM.

A Greektown Casino surveillance officer observed plaintiff Catherine Simmons “force-feeding” a slot machine. Force-feeding, a casino term-of-art, means inserting money into a slot machine without actually gambling, or gambling only a small portion of the money value inserted. Because force-feeding may evidence money laundering, the casino called the Michigan State Police (MSP) and reported Simmons’ actions. Defendant Darrin Grandison, a Michigan State Police detective, drove to the casino and witnessed Simmons force-feeding a slot machine. He detained and questioned Simmons for almost half an hour, searched her purse, and seized her money. Simmons was never prosecuted, and eventually regained her funds. She brought this action against Grandison asserting intentional tort claims. Reasoning that Grandison had acted in good faith and thereby enjoyed qualified immunity, the circuit court granted summary disposition in his favor. We affirm.

I.

The MSP maintains a “gaming unit” to enforce the law at Michigan’s casinos. On June 7, 2009, a caller from the Greektown Casino advised the gaming unit that a patron was force-feeding slot machines. Grandison drove to the casino, and was directed to Simmons. He watched her “gaming a slot machine” and concluded that although Simmons appeared to be gambling, she was also force-feeding the machine. Grandison described force-feeding as “a term that means if a patron put in credits or a bill into the slot machine and does not play the credits out from that bill and then put[s] in more bills, more bills, there’s more – there’s enough credits to play the game but the patron’s still putting in bills to add to the credits.” After she inserted a bill, Simmons played “for a minimum time” before cashing out, only to immediately insert yet another bill. Each time she cashed out, Simmons acquired a “TITO ticket,” which holds a credit

for the amount unplayed.<sup>1</sup> Although this gambling strategy is not illegal, Grandison found it “unusual” and potentially consistent with money laundering.<sup>2</sup>

After watching Simmons play, Grandison contacted a casino security officer and inquired about the denomination of the bills Simmons repeatedly inserted into the slot machine. When the officer advised that Simmons was betting with \$100 bills, Grandison’s suspicions sharpened. He explained:

Q. All right. So when you say someone has a large amount of TITO tickets, why doesn’t that make any sense to you from a . . . legitimate, legal gambling standpoint; why is that suspicious; what’s that tell you?

A. Well, it’s suspicious because if – if you want to play \$20 in a slot machine and you have a \$50 TITO ticket, it’s – it’s highly irregular for you to pull \$20 out of your pocket to play when you have this TITO ticket that’s valued over \$20, you just use the TITO ticket.

And it’s been my experience with contact and I’m a gambler myself, personal experience, that gamblers don’t – the whole object is to not give the casino your money. So if you already have a ticket value that you could use, I’m not taking any money out of my pocket when I could use this. The fact that there is ten, fifteen tickets that was all obtained, that’s – that raises an eyebrow, not only with me –

Q. Because why; what does this mean?

A. It – it means there’s – to me, it strikes a cord [sic] that there’s something unusual going on here. This is highly unusual.

Q. Why would the number of like fifteen, twenty, a handful of TITO tickets versus one, what’s that tell you in terms of your investigation?

A. Well, it tells me that this person is trying to accumulate tickets, accumulate value, money, and it’s going to –

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<sup>1</sup> “TITO” means “ticket in/ticket out.” The ticket can be used to gamble or can be redeemed for cash.

<sup>2</sup> We note that the current matter is not Simmons’ first interaction with the MSP gaming unit. On August 21, 2005, Simmons was detained at the Greektown Casino on suspicion of money laundering because she cashed out numerous low-value TITO tickets totaling over \$10,000. This conduct alerted casino security that Simmons might have been engaging in money laundering as she effectively avoided having her winnings reported to the Internal Revenue Service as required by law. *Simmons v Greektown Casino, LLC*, unpublished opinion per curiam of the Court of Appeals, issued September 24, 2009 (Docket No. 286845), after remand (Docket No. 300023).

Q. Well what do you do with the tickets?

A. Well, you eventually cash those out for cash.

Q. So, now, you have all these tickets that has all this money that you're going to get from the casino that you've already fed in, correct?

A. Yes, sir.

Grandison believed that by amassing tickets without laying many bets, Simmons was "possibly trying to legalize" her money. This thought triggered his suspicion "that there might be a crime afoot of money laundering."

Grandison and two casino security officers approached Simmons and identified themselves. Grandison requested that Simmons cash out and follow him. She refused. Grandison asked again, and Simmons refused a second time. Grandison pushed a button on the slot machine, retrieved the ticket containing Simmons' remaining credits, and instructed her to follow him to an interview room. This time, she complied.

Grandison began the interview by searching Simmons' purse and seizing her cash and TITO tickets. When Simmons asked permission to leave, Grandison informed her that she could not exit the room until he completed an accounting of the money and tickets, which would be recorded by video and audio surveillance. In response to Grandison's questions, Simmons stated that she had \$5,000 when the evening began. After Grandison counted \$3,543 in remaining cash and credits and produced a receipt, he allowed Simmons to depart.

The MSP investigated Simmons for another fifteen months without bringing any charges. In October 2009, Simmons filed a complaint against Grandison setting forth claims for false arrest, false imprisonment, conversion, claim and delivery, and intentional infliction of emotional distress. Eventually the police returned her money, and she elected not to pursue the conversion and claim and delivery counts. The circuit court granted summary disposition to Grandison in a bench ruling, finding that his investigation lacked any hint of malice, thereby entitling him to qualified immunity. After the circuit court issued its summary disposition ruling, Simmons' counsel engaged in a brief colloquy with the court. Counsel asserted that Grandison's "suspicion" did not rise to the level of probable cause. The circuit court disagreed, specifically finding that the information available to Grandison "established probable cause for him to act."

## II.

Simmons insists that because force-feeding a slot machine is perfectly legal, Grandison lacked probable cause to arrest her or to seize her money. Because he lacked probable cause, Simmons argues, her detention and the seizure were the products of bad faith, negating any claim of immunity. We review a trial court's summary disposition ruling *de novo*. *Odom v Wayne Co*, 482 Mich 459, 466; 760 NW2d 217 (2008). For motions under both MCR 2.116(C)(7) (immunity granted by law) and (C)(10) (no genuine issue of material fact), we review the pleadings and evidentiary record in the light most favorable to the nonmoving party to determine if the moving party is entitled to judgment as a matter of law. *Id.* at 466-467. We also consider

de novo the availability of governmental immunity. *Norris v Lincoln Park Police Officers*, 292 Mich App 574, 578; 808 NW2d 578 (2011).

Money laundering converts illegally-gotten cash into a clean form. A person commits the crime of money laundering when she conducts “a financial transaction involving a monetary instrument” with “prior actual knowledge” that the instrument represents the proceeds of a crime, and the transaction is designed “to conceal or disguise the nature, location, source, ownership or control of the proceeds” of a criminal offense. MCL 750.411k(2). Simmons insists that although her betting-style seemed “unusual,” it was consistent only with money spending, not money laundering. She contends that because Grandison lacked evidence that her cash bore any illegal taint, no factual basis existed for her arrest. Grandison’s mere suspicion of money laundering, Simmons argues, did not rise to the level of probable cause.

We need not resolve whether probable cause existed for Simmons’ arrest, since Simmons’ focus on this issue misses the point.<sup>3</sup> Grandison enjoys qualified immunity under MCL 691.1407(3) if he undertook his actions (1) during the course of his employment and within the scope of his authority; (2) in good faith, and (3) while exercising discretion rather than carrying out a ministerial task. *Odom*, 482 Mich at 480. Simmons challenges only Grandison’s good faith. Good faith does not depend on the existence or non-existence of probable cause. Rather, the appropriate question is whether Grandison possessed an honest, good faith belief that he had probable cause to detain Simmons and to seize her money. *Id.* at 474-475.

In *Odom*, the Supreme Court highlighted the attributes of conduct consistent with a *lack* of good faith. Malice is the touchstone of the inquiry. This Court has “described good faith simply as acting without malice.” *Id.* at 474, citing *Armstrong v Ross Twp*, 82 Mich App 77, 85-86; 266 NW2d 674 (1978). “[T]he proponent of individual immunity must establish that he acted without malice.” *Id.* at 475. Two concepts closely related to malice supply additional measures of an absence of good faith: “[T]here is no immunity when the governmental employee acts *maliciously* or with a *wanton or reckless disregard of the rights of another*.” *Id.* at 474 (emphasis in original). The model civil jury instructions provide a “useful guide” for considering whether an official acted without malice. *Id.* at 475. M Civ JI 14.12 defines “willful misconduct” as “conduct or a failure to act that was intended to harm the plaintiff,” while M Civ JI 14.11 describes “wanton misconduct” as “conduct or a failure to act that shows such indifference to whether harm will result as to be equal to a willingness that harm will result.” *Odom*, 482 Mich at 475.

The material facts of this case are not in dispute. Simmons was force-feeding a slot machine with \$100 bills, gambling only intermittently, and instead accumulating a wad of “tickets” that she could exchange for clean cash. Maybe this amounted to money laundering,

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<sup>3</sup> We note that Simmons also pursued a federal court action against Grandison brought under 42 USC § 1983. In that case, the federal district court judge ruled that the Wayne Circuit Court’s ruling that probable cause existed for Simmons’ arrest precluded relitigation of that issue in her § 1983 case. *Simmons v Grandison*, unpublished opinion of the District Court for the Eastern District of Michigan, issued September 26, 2011 (Docket No. 10-13681).

and maybe it merely manifested Simmons' idiosyncratic gambling technique. Regardless, reasonable minds could not differ in concluding that Grandison's decision to detain and question Simmons, and to seize her cash, was the product of his good faith belief that he had probable cause to suspect that she was converting tainted funds into legitimate dollars. Simmons has identified no evidence suggesting that Grandison knew her, harbored any ill-feelings toward her, intended to harm her, recklessly disregarded her rights, or was maliciously motivated.<sup>4</sup> Rather, the evidence supports only that Grandison acted based on his good-faith belief that force-feeding a slot machine suggests money-laundering, and that Simmons was likely engaged in an illegal activity. Based on this undisputed evidence, the trial court correctly dismissed Simmons' tort claims against the Michigan State Police detective.

Affirmed.

/s/ Elizabeth L. Gleicher

/s/ Michael J. Kelly

/s/ Mark T. Boonstra

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<sup>4</sup> In *Simmons v Greektown Casino, LLC*, unpublished per curiam opinion of the Court of Appeals, issued September 24, 2009 (Docket No. 286845), slip op at 1, “[c]asino staff members found [Simmons’] conduct suspiciously indicative of money laundering and summoned . . . a state police officer.” In that opinion, this Court stressed “The question of probable cause . . . is not the proper inquiry.” *Id.* at 3. No evidence supports that Grandison knew of the previous encounter with Simmons.