

*Keith Manson v. Daniel Conklin Et Al. (AC 41672)*

The plaintiff brought this action seeking damages for injuries sustained as a result of the defendant's alleged negligence. The plaintiff alleged that the defendant, a police officer who was on duty at the time, negligently struck him with his car while the plaintiff was on a dirt bike. The accident occurred when the defendant observed two pedestrians in the street and, in order to safely pass them, veered into the center of the road. At the same time, the plaintiff was traveling on the same street in the opposite direction. The plaintiff was traveling at a high rate of speed up a hill at the top of the street. Upon cresting the hill, the plaintiff collided with the defendant's car, resulting in multiple injuries and required emergency surgery. The plaintiff alleged negligence against the police officer, negligence against the city under General Statutes §52-577n, and sought indemnification from the city under General Statutes §7-465. The jury found in favor of the defendants. The plaintiff appealed.

On appeal, the plaintiff argued that the court "improperly precluded him from impeaching [the defendant] about the findings and conclusions contained in unrelated IA investigative reports regarding alleged misconduct and dishonesty he previously had engaged in as a police officer and his lack of veracity in responding to those allegations." The plaintiff claimed that he was allowed to question the defendant about past unrelated misconduct pursuant to §6-6(b)(1) of the Connecticut Code of Evidence which states "[a] witness may be asked, in good faith, about specific instances of conduct of the witness, if probative for the witness' character for untruthfulness." The court denied the plaintiff's objection, claiming that doing so would cause unfair prejudice to the defendant and would draw the court away from the actual issue being litigated.

The issue presented to the Appellate Court in this appeal is “whether the findings and conclusions of the department that [the defendant] had engaged in misconduct and was dishonest should not have been precluded by the court.” The Court concluded that the trial court properly precluded the findings and conclusions regarding the defendant’s past misconduct. In reaching this conclusion, the court first looked to the precedent case *Weaver v. McKnight*, wherein the Connecticut Supreme Court found that in general §6-6(b)(1) prohibits “the use of character evidence to prove that a person has acted in conformity with a character trait on a particular occasion,” however, there is an exception to this prohibition. Such an exception exists when a party seeks to admit evidence of a witness’ character for untruthfulness in order to impeach the credibility of the witness.

The Court noted that there are three limitations placed on a party’s ability to cross-examine a witness about prior misconduct. The limitations are as follows: (1) cross-examination may only extend to specific acts of misconduct other than a felony conviction if those acts bear a special significance upon the issue of veracity; (2) [w]hether to permit cross-examination as to particular acts of misconduct . . . lies largely within the discretion of the trial court; and (3) extrinsic evidence of such acts is inadmissible. In light of these limitations, the only way for a party to prove misconduct is through witness examination. During this examination, the party questioning the witness may not introduce extrinsic evidence and must accept the witness’ answers as true. Additionally, the Court noted that findings or determinations by a third party may not be introduced as evidence that the witness has engaged in misconduct.

The Court reasoned that “the conclusions and findings contained within the IA reports constitute extrinsic evidence of alleged prior misconduct because they reflect the opinions of the department that [the defendant] acted untruthfully.” The plaintiff would have been allowed to ask

the defendant about his past misconduct, however, if the defendant denied any past misconduct, the plaintiff would have been prohibited from bringing forward the IA report to counter such a claim as the report constitutes extrinsic evidence. Additionally, the plaintiff may not circumvent this rule by specifically questioning the defendant about the conclusions drawn in the report.

The Court determined that the trial court properly precluded the plaintiff from admitting the IA report in support of his claim of negligence on the part of the defendant. The Court upheld the ruling of the trial court.