

FEDERAL MALICIOUS PROSECUTION CASE MUST BE BASED ON FOURTH AMENDMENT, NOT SUBSTANTIVE DUE PROCESS

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Yanes v. Maricopa County

Ct. Appeals, Division One, November 8, 2012

Authored by the [JSH Appellate Team](#)

While Plaintiff Yanes was being processed into jail for allegedly molesting and murdering his 11-month-old son, one of the Detention officers allegedly assaulted him and then falsely reported that Yanes was the aggressor. Yanes was charged with aggravated assault but was not prosecuted while his murder charge was pending. Yanes was ultimately acquitted of the murder. The aggravated assault charge was eventually dismissed.

Yanes brought a federal malicious prosecution claim, among other things, alleging that he was charged for aggravated assault without probable cause, and that this violated his substantive due process rights. He did not make a Fourth Amendment claim. The Arizona Court of Appeals, relying on *Albright v. Oliver*, 510 U.S. 266 (1994), held that a claim of prosecution without probable cause had to be brought under the Fourth Amendment, not the Fourteenth Amendment. While the filing of baseless charges could be based on substantive due process in other contexts, the facts of this case did not give rise to such a claim. Because Plaintiff's federal claim was reversed, the court also reversed the jury's award of punitive damages and attorneys' fees which had been awarded under § 1983. In a separate unpublished opinion, the court also reversed the jury's verdict for intentional infliction of emotional distress and abuse of process, but affirmed that part of the judgment based upon state malicious prosecution.