

3.20 FALSE IMPRISONMENT (FALSE ARREST) (Approved 6/89)

C. CITIZEN'S ARREST FOR A CRIME WITHOUT A WARRANT

It is the law of this State that a private citizen may lawfully arrest another person without a warrant if he/she knows that a crime has actually been committed and that there is probable or reasonable cause to suspect that the person he/she arrested did it.

When such an arrest without a warrant is made, the prisoner must be taken without unnecessary delay before the nearest available judge or other appropriate governmental official, a complaint promptly filed and a warrant issued based on the complaint.

The offense for which it was alleged that the defendant arrested the plaintiff was a crime for which a citizen's arrest may be made. (Here discuss facts of arrest and detention).

So, in deciding whether plaintiff was falsely imprisoned, there are two decisions you have to make.

The first is whether plaintiff has proven, by the greater weight of the evidence, that defendant intentionally detained or restrained plaintiff in his/her personal liberty or freedom of movement by arresting him/her.

The second decision, assuming you find that defendant did intentionally restrain plaintiff by an arrest, involves defendant's claim that he/she had a right to make the arrest and that the confinement was only for a reasonable period of time. Here, the defendant must prove this to you by the greater weight of the evidence. So you must decide, one, whether defendant had actual knowledge that the specific crime [insert type of crime] had been committed; two, if so, whether the defendant also had reasonable or probable cause to believe that plaintiff committed that crime; and three, if so, did defendant restrain plaintiff only for a reasonable period of time before bringing plaintiff before a judge or another appropriate governmental official.

Reasonable or probable cause would be that the facts and circumstances known to the defendant were such as would lead a reasonably cautious person to believe that the plaintiff had committed the crime. It must be more than mere conjecture or unfounded suspicion.

A reasonable period of time would be only that length of time that was necessary under the circumstances that a reasonable person would need to bring plaintiff to a judge or other appropriate governmental official in the circumstances facing defendant.

The reasonableness of this time would be affected by the availability of the judge or official, the location of the arrest, the time of day or night, the problem of confining the plaintiff using available means while reaching the judge or official and any other factors that you might think have a bearing on the amount of time. If the defendant imprisoned the plaintiff for an unreasonable time then, notwithstanding the original legality of the confinement, the unreasonable detention would constitute false arrest. On the other hand, if the arrest was proper and the confinement reasonable according to the rules I have explained, then you must find for the defendant. But if you find that there was a confinement, and you find that either there was no right to make the arrest or that the confinement was for an unreasonable period of time, then you must find for plaintiff.

[go on to Damages (False Imprisonment (False Arrest)), Charge 8.47C]

NOTE TO JUDGE

A citizen has the right to arrest without a warrant where it appears that a crime had actually been committed, and that there was probable or reasonable cause to fairly suspect the person arrested to be guilty. *Brown v. State*, 62 N.J.L. 666 (E. & A. 1889), *affirmed* 175 U.S. 172; *Reuck v. McGregor*, 32 N.J.L. 70 (Sup. Ct. 1866). Although New Jersey Law does not categorize crimes as felonies, for the purpose of arrest law a common law felony corresponds to a crime for which a person may be incarcerated for more than one year in a State prison.

To supplement the citizen's common law right of arrest, the Legislature has granted additional authority to the individual to make warrantless arrests where a disorderly persons offense has been committed in his/her presence. *N.J.S.A. 2A:169-3* provides:

Whenever an offense is committed in his/her presence any constable or police officer shall, and any other persons may, apprehend without warrant or process any disorderly person, and take him/her before any magistrate of the county where apprehended.