

Tuesday, August 7, 2007

### **When cops sue cops for libel.**

Â The First Amendment and the rest of the Bill of Rights.Â (From the public domain.)Â Talk about a court case involving two of my passions on opposite sides, with allegedly lying cops on one end (a pet peeve of mine if I ever had one)Â and a libel suit against the allegedly lying cops (I strongly oppose libel suits). Add to the mix that this is a lawsuit by cops against cops, making this enough fodder for a dark comedy. The case is Smith v. Danielczyk, \_\_\_ Md. \_ (July 25, 2007). Â Smith confirms that police have qualified -- not absolute -- immunity against libel lawsuits for providing false information in an application for a search warrant or arrest warrant.Â The immunity is lostÂ when the police know the information to be false or recklessly disregard whether the information is false.Â Smith Â confirms the Supreme Court's holding in Imbler v. Pachtman, 424 U.S. 409 (1976) that prosecutors, on the other hand, have absolute immunity from libel lawsuits in seeking an indictment. Â How would I react if a police officer asked me to represent him or her as a defendant in such a libel lawsuit? Even if I knew the defendant had knowingly lied in the search warrant application, I still would accept the representation, at the very least because I oppose libel suits. Jon Katz.

Posted by Jon Katz in First Amendment at 00:05