

SUPREME COURT OF RHODE ISLAND

Yvon Georges v. State of Rhode Island et al.

Georges · No. 2019-219-Appeal; KC 14-355 · Decided May 11, 2021

SUMMARY

The Rhode Island Supreme Court affirmed summary judgment for the State of Rhode Island in a negligence action arising from injuries allegedly caused by a pothole on a state roadway. The court held that the public duty doctrine barred the plaintiff's personal-injury claim because pothole repair is a discretionary governmental function not ordinarily performed by private individuals. The court also held that Rhode General Laws § 24-8-35 provides a limited remedy for motor-vehicle damage and does not authorize recovery for personal injuries.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Associate Justice Maureen McKenna Goldberg; Chief Justice Suttell; Justice Goldberg; Justice Robinson; Justice Lynch Prata; Justice Long
JURISDICTION	Rhode Island
DECIDED	May 11, 2021
DOCKET	2019-219-Appeal; KC 14-355
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiff appealed from the Superior Court's grant of summary judgment for the defendants. The appeal challenged only the judgment in favor of the State of Rhode Island.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The Court examines the case as the trial justice did, views the evidence in the light most favorable to the nonmoving party, and affirms when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. The nonmoving party must produce competent evidence of a disputed material fact.
PRECEDENTIAL VALUE	published state supreme court opinion
PARTIES	Yvon Georges v. State of Rhode Island, City of Warwick, Ernest Zmyslinski, in his capacity as Director of Finance for the City of Warwick

TOPICS

negligence personal injury municipal liability statutory interpretation standard of review

PRACTICE AREAS

tort law governmental immunity personal injury appellate procedure

QUESTIONS PRESENTED

1. Whether G.L. 1956 § 24-8-35 creates an exception to the public duty doctrine that permits recovery for personal injuries caused by a pothole on a state roadway.
2. Whether the public duty doctrine bars a negligence claim against the state for failing to repair a pothole on a public roadway.
3. Whether the exception for activities normally performed by private citizens applies to pothole repair on a state roadway.
4. Whether summary judgment was properly granted to the State of Rhode Island.

HOLDINGS

1. Section 24-8-35 is a limited waiver of sovereign immunity and limited abrogation of the public duty doctrine that permits recovery only for damage to a motor vehicle, up to \$300; it does not extend to personal-injury claims.
2. The public duty doctrine bars the plaintiff's negligence claim against the state for failure to repair a pothole on a public roadway because roadway maintenance, including pothole repair, is a discretionary governmental function shielded from tort liability.
3. The private-citizen exception does not apply because private individuals do not build, repair, or maintain public roads; pothole repair on a state roadway is not an activity normally performed by private citizens.

KEY QUOTATIONS

“This enactment constitutes a limited waiver of sovereign immunity and a limited abrogation of the protections of the common law public duty doctrine.” (-6-)

“We are of the opinion that repairing potholes, no matter how numerous they may be, is part and parcel of the state’s responsibility for roadway maintenance and falls squarely within the protections of the public duty doctrine.” (-9-)

“Accordingly, pothole repair on a state roadway is not an activity capable of being performed by a private individual.” (-11-)

FACTUAL BACKGROUND

On or about May 13, 2011, Yvon Georges was driving near West Shore Road and Judith Avenue in Warwick, Rhode Island, when his vehicle struck an approximately eighteen-inch pothole, causing a wheel to dislodge. Georges suffered personal injuries and was unable to work from May 13 through approximately June 30, 2011.

He alleged that the State negligently failed to maintain the roadway. His property-damage claim was voluntarily dismissed with prejudice, leaving only his personal-injury claim against the state at issue on appeal.

PROCEDURAL HISTORY

Georges filed an amended negligence complaint after sustaining personal injuries when his vehicle struck a pothole on West Shore Road. The Superior Court granted the state's Rule 56 motion for summary judgment, concluding that the public duty doctrine barred the claim and that the statutory pothole-damage provision did not apply to personal-injury damages. The court entered final judgment on March 5, 2019, and Georges timely appealed. The Supreme Court heard the appeal under a show-cause procedure and affirmed.

DISPOSITION

affirmed

CASES CITED

- Yanku v. Walgreen Co., 224 A.3d 1130, 1132-1133 (R.I. 2020)
- Ballard v. SVF Foundation, 181 A.3d 27, 34 (R.I. 2018)
- Iselin v. Retirement Board of Employees' Retirement System of Rhode Island, 943 A.2d 1045, 1049 (R.I. 2008)
- Accent Store Design, Inc. v. Marathon House, Inc., 674 A.2d 1223, 1226 (R.I. 1996)
- Morales v. Town of Johnston, 895 A.2d 721, 730 (R.I. 2006)
- Schultz v. Foster-Glocester Regional School District, 755 A.2d 153, 155 (R.I. 2000)
- Catone v. Medberry, 555 A.2d 328, 333 (R.I. 1989)
- DeFusco v. Todesca Forte, Inc., 683 A.2d 363, 364-365 (R.I. 1996)
- Toegemann v. City of Providence, 21 A.3d 384, 388 (R.I. 2011)
- Catri v. Hopkins, 609 A.2d 966, 968 (R.I. 1992)
- Martinelli v. Hopkins, 787 A.2d 1158, 1167 (R.I. 2001)
- O'Brien v. State, 555 A.2d 334, 335, 338 (R.I. 1989)
- Longtin v. D'Ambra Construction Company, Inc., 588 A.2d 1044, 1046 (R.I. 1991)