

NEW YORK COURT OF APPEALS

Jesus Ferreira v. City of Binghamton

No. No. 10, New York Court of Appeals (March 22, 2022)

SUMMARY

In *\*Ferreira v. City of Binghamton\**, the New York Court of Appeals held that the "special duty" requirement applies to all negligence claims against a municipality acting in a governmental capacity, regardless of whether the injury was directly inflicted by a municipal employee or by a third party. The court further clarified that a special duty may arise when police plan and execute a no-knock search warrant, as they take positive control of a known and dangerous condition, creating a duty running to individuals within the targeted premises at the time of execution. The decision reaffirms that plaintiffs must establish a special duty—through statute, voluntary assumption, or control of a dangerous condition—to sustain a negligence claim against a municipality engaged in a governmental function.

CASE DETAILS

|                       |                                                                                    |
|-----------------------|------------------------------------------------------------------------------------|
| COURT                 | New York Court of Appeals                                                          |
| WRITING FOR THE COURT | Singas; DiFiore, C.J.; Garcia, J.; Cannataro, J.; Troutman, J.                     |
| JURISDICTION          | New York                                                                           |
| DECIDED               | March 22, 2022                                                                     |
| DOCKET                | No. 10                                                                             |
| DISPOSITION           | other                                                                              |
| PROCEDURAL POSTURE    | Certified question from the United States Court of Appeals for the Second Circuit. |
| STANDARD OF REVIEW    | Not applicable; certified question.                                                |
| PRECEDENTIAL VALUE    | Published                                                                          |
| PARTIES               | Jesus Ferreira v. City of Binghamton et al.                                        |

TOPICS

- torts
- negligence
- duty of care
- standard of care
- respondeat superior
- appellate procedure

PRACTICE AREAS

- Torts
- Government Liability

## QUESTIONS PRESENTED

1. Does the 'special duty' requirement apply to claims of injury inflicted through municipal negligence, or does it apply only when the municipality's negligence lies in its failure to protect the plaintiff from an injury inflicted by a non-municipal employee?

## HOLDINGS

1. Plaintiffs must establish a special duty when asserting a negligence claim based on actions taken by a municipality acting in a governmental capacity. The special duty requirement applies to all negligence claims against a municipality acting in a governmental capacity, regardless of who directly inflicted the injury.
2. A special duty may be established when a municipality, acting through its police force, plans and executes a no-knock search warrant at a person's home, and such a duty runs to the individuals within the targeted premises at the time the warrant is executed.

## KEY QUOTATIONS

*“Consistent with our precedent and the purpose of the special duty rule, we reiterate that plaintiffs must establish that a municipality owed them a special duty when they assert a negligence claim based on actions taken by a municipality acting in a governmental capacity.” (at 2)*

*“We further clarify that plaintiffs may establish a special duty when a municipality, acting through its police force, plans and executes a no-knock search warrant at a person's home, and that such a duty runs to the individuals within the targeted premises at the time the warrant is executed.” (at 19-20)*

*“To sustain liability against a municipality [engaged in a governmental function], the duty breached must be more than that owed the public generally.” (at 9)*

## FACTUAL BACKGROUND

In August 2011, Binghamton police obtained a no-knock search warrant for an apartment where a suspected dangerous felon was believed to reside. After surveillance, a SWAT team executed a dynamic entry early the next morning. During the entry, plaintiff Jesus Ferreira, who was sleeping on the couch, was shot by Officer Kevin Miller. Plaintiff was unarmed; Miller claimed he mistook an Xbox controller for a gun. The jury found Miller not negligent but found the city liable for negligence in planning the raid.

## PROCEDURAL HISTORY

Plaintiff Jesus Ferreira sued the City of Binghamton and others in federal court for negligence after being shot by a police officer during a no-knock warrant execution. The jury found the city liable under respondeat superior but found the officer not negligent. The district court granted judgment as a matter of law to the city, concluding that no special duty was owed. The Second Circuit affirmed in part and certified a question to the New York Court of Appeals regarding the applicability of the special duty requirement.

## DISPOSITION

other

## REMAND INSTRUCTIONS

Certified question answered in accordance with the opinion.

## CASES CITED

- Lauer v City of New York, 95 NY2d 95 (2000)
- Applewhite v Accuhealth, Inc., 21 NY3d 420 (2013)
- Valdez v City of New York, 18 NY3d 69 (2011)
- Florence v Goldberg, 44 NY2d 189 (1978)
- Cuffy v City of New York, 69 NY2d 255 (1987)
- Sorichetti v City of New York, 65 NY2d 461 (1985)
- Smullen v City of New York, 28 NY2d 66 (1971)
- Haddock v City of New York, 75 NY2d 478 (1990)
- Johnson v City of New York, 15 NY3d 676 (2010)
- Mon v City of New York, 78 NY2d 309 (1991)
- McCummings v New York City Tr. Auth., 81 NY2d 923 (1993)
- Meistinsky v City of New York, 309 NY 998 (1956)
- Flamer v City of Yonkers, 309 NY 114 (1955)
- Wilkes v City of New York, 308 NY 726 (1954)