

INDIANA SUPREME COURT

F.D. v. Indiana Department of Child Services

1 N.E.3d 131 (Ind. 2013) · Decided November 26, 2013

SUMMARY

The Indiana Supreme Court considered whether the Indiana Department of Child Services and the Evansville Police Department were immune from negligence claims arising from their handling of child-abuse information. The court held that the Police Department was immune under the Indiana Tort Claims Act for its investigative and law-enforcement decisions, but that the Department of Child Services was not immune under either the Tort Claims Act or the child-abuse-reporting statute for allegedly failing to notify the parents. The court affirmed summary judgment for the Police Department, reversed it as to the Department of Child Services, and remanded.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Chief Justice Dickson; Justice Rucker; Justice David; Justice Rush; Justice Massa
JURISDICTION	Indiana
DECIDED	November 26, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from summary judgment entered for the Indiana Department of Child Services and the Evansville Police Department in a negligence action alleging mishandling of child-abuse reports and failure to notify the plaintiffs of information concerning the alleged molestation of their daughter; the Indiana Supreme Court granted transfer.
STANDARD OF REVIEW	Summary judgment is reviewed de novo under the same standard applicable in the trial court. The moving party bears the initial burden of making a prima facie showing that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law. Designated facts and reasonable inferences are construed in favor of the nonmoving party.
PRECEDENTIAL VALUE	Published opinion of the Indiana Supreme Court; precedential.

PARTIES

J.D., M.D., F.D., G.D., T.D. v. Indiana Department of Child Services,
Evansville Police Department

TOPICS

summary judgment

statutory interpretation

administrative law

negligence

torts

PRACTICE AREAS

governmental immunity

negligence

child protection

administrative law

summary judgment

QUESTIONS PRESENTED

1. Whether Indiana Tort Claims Act section 34-13-3-3(6), granting immunity for losses resulting from the initiation of a judicial or administrative proceeding, immunized DCS from claims based on its failure to notify the plaintiffs about information concerning the alleged molestation of F.D.
2. Whether the child-abuse-reporting immunity statute, Indiana Code section 31-33-6-1, immunized DCS from claims based on its alleged failure to disclose information concerning a separate report of abuse.
3. Whether Indiana Tort Claims Act section 34-13-3-3(8), granting law-enforcement immunity for losses resulting from the adoption, enforcement, or failure to adopt or enforce a law, immunized EPD from claims based on its investigation and failure to pursue separate delinquency charges.

HOLDINGS

1. ITCA section 34-13-3-3(6) did not immunize DCS because the plaintiffs' alleged loss did not result from the initiation of the delinquency proceeding. Their claims were based on DCS's alleged failure to notify them about the molestation of F.D., and the same alleged harm could have occurred even if no proceeding had been initiated.
2. Indiana Code section 31-33-6-1 did not immunize DCS from the plaintiffs' claims because the alleged liability arose from DCS's inaction and failure to provide information concerning a separate report of abuse, not from DCS's participation in a judicial proceeding.
3. EPD was immune under ITCA section 34-13-3-3(8) because the plaintiffs' claims challenged EPD's investigation of an alleged offense and its failure to pursue delinquency charges, conduct constituting an attempt to enforce or a failure to enforce the law.

KEY QUOTATIONS

“On appeal of the grant or denial of a motion for summary judgment, we apply the same standard applicable to the trial court.” (135)

“The negligence of a defendant “is not relevant if it is immune. Immunity assumes negligence but denies liability.”” (136)

“Plaintiffs do not assert that any harm to them resulted from the initiation of the proceeding against Nephew.” (138)

“The facts, which we must construe in favor of the plaintiffs as the non-moving party on summary judgment, do not fall within the circumstances granting immunity under the plain words of the statute” (140)

FACTUAL BACKGROUND

The plaintiffs reported to DCS that their four-year-old son had been molested by his twelve-year-old cousin. During a police interview, the cousin admitted touching four cousins, including the plaintiffs' daughter F.D. DCS recorded the admission and EPD referred the matter for delinquency proceedings, but neither agency informed the parents that F.D. had been identified as a victim. The parents later learned of the admission from a third party and sued for negligence.

PROCEDURAL HISTORY

The trial court granted summary judgment to all defendants on immunity grounds. The plaintiffs appealed as to DCS and EPD but not the Vanderburgh County Prosecutor's Office. The Indiana Court of Appeals affirmed, and the Indiana Supreme Court granted transfer, affirmed summary judgment for EPD, and reversed summary judgment for DCS.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the trial court for further proceedings consistent with the opinion. Summary judgment remains affirmed in favor of EPD, while summary judgment in favor of DCS is reversed.

CASES CITED

- Presbytery of Ohio Valley, Inc. v. OPC, Inc., 973 N.E.2d 1099, 1110 (Ind. 2012)
- Wilson v. Isaacs, 929 N.E.2d 200, 202 (Ind. 2010)
- Gill v. Evansville Sheet Metal Works, Inc., 970 N.E.2d 633, 637 (Ind. 2012)
- Mangold ex rel. Mangold v. Ind. Dep't of Natural Res., 756 N.E.2d 970, 973-975 (Ind. 2001)
- Campbell v. State, 259 Ind. 55, 63, 284 N.E.2d 733, 737-38 (1972)
- Klepinger v. Bd. of Comm'rs of Miami Cnty., 148 Ind. App. 178, 198-202, 239 N.E.2d 160, 172-73 (1968)
- Brinkman v. City of Indianapolis, 141 Ind. App. 662, 666-69, 231 N.E.2d 169, 172-73 (1967)
- Benton v. City of Oakland City, 721 N.E.2d 224, 227 (Ind. 1999)
- Gary Cmty. Sch. Corp. v. Roach-Walker, 917 N.E.2d 1224, 1227 (Ind. 2009)
- Catt v. Bd. of Comm'rs of Knox Cnty., 779 N.E.2d 1, 5-6 (Ind. 2002)
- Peavler v. Bd. of Comm'rs of Monroe Cnty., 528 N.E.2d 40, 46-47 (Ind. 1988)
- Clark v. Clark, 971 N.E.2d 58, 61 (Ind. 2012)
- Porter Dev., LLC v. First Nat'l Bank of Valparaiso, 866 N.E.2d 775, 778 (Ind. 2007)
- Waldrip v. Waldrip, 976 N.E.2d 102, 115-16 (Ind. Ct. App. 2012)

- Butt v. McEvoy, 669 N.E.2d 1015, 1017-18 (Ind. Ct. App. 1996)
- Ind. Dep't of Fin. Insts. v. Worthington Bancshares, Inc., 728 N.E.2d 899, 902-03 (Ind. Ct. App. 2000)
- Livingston v. Consol. City of Indianapolis, 398 N.E.2d 1302, 1306 (Ind. Ct. App. 1979)
- Davis v. Animal Control-City of Evansville, 948 N.E.2d 1161, 1164 (Ind. 2011)
- Anonymous Hosp. v. A.K., 920 N.E.2d 704, 709 (Ind. Ct. App. 2010)
- F.D. v. Ind. Dep't of Family Servs., 973 N.E.2d 1186 (Ind. Ct. App. 2012)