

DISTRICT OF COLUMBIA COURT OF APPEALS

District of Columbia v. Hawkins

782 A.2d 293 (D.C. 2001) · No. Nos. 96-CV-218, 96-CV-484, 96-CV-525, 96-CV-553 · Decided October 4, 2001

SUMMARY

The District of Columbia Court of Appeals considered whether the District was liable for deaths resulting from a vehicle collision during a high-speed police pursuit. The court held that a reasonable jury could find the police officers grossly negligent under the circumstances and affirmed the liability judgment. It also upheld damages for loss of maternal services and the reduced awards for pain, suffering, and pre-death mental anguish.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | District of Columbia Court of Appeals                                                                                                                                                                                                                                                                                                                                                                                         |
| WRITING FOR THE COURT | Wagner, Chief Judge; Steadman, Associate Judge; Kern, Senior Judge                                                                                                                                                                                                                                                                                                                                                            |
| JURISDICTION          | District of Columbia                                                                                                                                                                                                                                                                                                                                                                                                          |
| DECIDED               | October 4, 2001                                                                                                                                                                                                                                                                                                                                                                                                               |
| DOCKET                | Nos. 96-CV-218, 96-CV-484, 96-CV-525, 96-CV-553                                                                                                                                                                                                                                                                                                                                                                               |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | The District appealed the denial of its motion for judgment as a matter of law after a jury found liability and awarded damages in wrongful-death and survival actions arising from a police pursuit. The appellees cross-appealed the remittitur order but dismissed that cross-appeal after filing their brief.                                                                                                             |
| STANDARD OF REVIEW    | For judgment as a matter of law, the evidence is viewed in the light most favorable to the prevailing appellees, and reversal is unwarranted if a reasonable juror could find gross negligence. Review of a trial court's decision concerning excessive damages, remittitur, or a new trial is for abuse of discretion; the award will be disturbed only if it exceeds the maximum reasonable range or shocks the conscience. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                                                                                                                |
| PARTIES               | District of Columbia v. Natalie Love Hawkins, Reginald Lamont Dease, Estate of James Bernell Gripper, Jr., Estate of Donna Love, Myron Harley, Sr.                                                                                                                                                                                                                                                                            |

## TOPICS

municipal liability

wrongful death

negligence

damages

appellate procedure

## PRACTICE AREAS

torts

municipal liability

wrongful death

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## QUESTIONS PRESENTED

1. Whether the evidence permitted a reasonable juror to find that the District's police officers acted with gross negligence in continuing the high-speed pursuit.
2. Whether the wrongful-death plaintiffs could recover the value of services, including maternal services, that the decedent would have provided.
3. Whether the reduced awards for pain, suffering, and pre-death mental anguish were excessive and required further remittitur.
4. Whether the negligent-training claim was properly submitted under an ordinary-negligence standard.

## HOLDINGS

1. A reasonable juror could find that the police officers' continuation of the high-speed pursuit constituted gross negligence because they knowingly continued at exceptionally high speeds through a densely populated residential area during rush hour, near schools and heavy traffic, and over a hill that obstructed their view of the roadway ahead.
2. The Wrongful Death Act permits recovery for the value of services the decedent would have provided to beneficiaries, including care, education, training, guidance, and personal advice; such recovery is not barred as a claim for parent-child consortium.
3. The trial court did not abuse its discretion by declining to reduce further the remitted awards for pain, suffering, and pre-death mental anguish.

## KEY QUOTATIONS

*“The serious aggravating factors required in order for the police officers' conduct to meet the gross negligence standard can be found in the continuation of this high speed chase under conditions which the officers knew created an extreme danger to others with reckless indifference to the situation.”* (301)

*“There was no plain error here in allowing recovery for the loss of decedent's services.”* (303)

*“The amount remaining after remittitur does not shock the conscience or exceed the limits within which the jury could operate.”* (305)

## FACTUAL BACKGROUND

District of Columbia police officers pursued a Nissan Pathfinder after it struck a pedestrian and fled. The pursuit proceeded at approximately 70 to 90 miles per hour through a residential neighborhood containing schools and heavy rush-hour vehicular and pedestrian traffic, including over a hill that obstructed the officers' view of the

intersection ahead. The Pathfinder entered the intersection of Minnesota Avenue and Ely Place and struck a Dodge Colt driven by Donna Love, killing Love and her seven-year-old nephew, James Gripper, Jr.

## PROCEDURAL HISTORY

A jury awarded appellees a total of \$5,997,751.77. The trial court denied the District's post-trial motion for judgment notwithstanding the verdict, finding sufficient evidence of gross negligence, and granted the District's motion for remittitur in part. The appellees accepted the remittitur, and the District appealed the liability ruling and several damages issues.

## DISPOSITION

affirmed

## CASES CITED

- District of Columbia v. Henderson, 710 A.2d 874 (D.C. 1998)
- District of Columbia v. Walker, 689 A.2d 40 (D.C. 1997)
- Andrews v. Wilkins, 934 F.2d 1267, 1272 (D.C. Cir. 1991)
- Peak v. Ratliff, 185 W. Va. 548, 556, 408 S.E.2d 300, 308 (1991)
- District of Columbia v. Howell, 607 A.2d 501 (D.C. 1992)
- Semler v. Psychiatric Institute of Washington, D.C., 188 U.S. App. D.C. 41, 575 F.2d 922 (D.C. Cir. 1978)
- Doe v. Binker, 492 A.2d 857 (D.C. 1985)
- District of Columbia v. Strother, 372 A.2d 1291, 1295 (D.C. 1977)
- Capitol Hill Hospital v. Jones, 532 A.2d 89, 93 (D.C. 1987)
- Vassiliades v. Garfinckel's, Brooks Bros., 492 A.2d 580, 594 (D.C. 1985)
- Weinberg v. Johnson, 518 A.2d 985, 994 (D.C. 1986)
- Finkelstein v. District of Columbia, 593 A.2d 591, 596 (D.C. 1991) (en banc)
- Louison v. Crockett, 546 A.2d 400, 403 (D.C. 1988)
- Munsey v. Safeway Stores, 65 A.2d 598, 600 (D.C. 1949)
- Lacy v. District of Columbia, 408 A.2d 985, 988 (D.C. 1979), aff'd on reh'g, 424 A.2d 317 (D.C. 1980)
- May Department Stores v. Devercelli, 314 A.2d 767, 775 (D.C. 1973)
- Pleasant v. Washington Sand & Gravel Co., 104 U.S. App. D.C. 374, 262 F.2d 471 (1958)
- Jones v. Wittenberg University, 534 F.2d 1203 (6th Cir. 1976)