

SUPREME COURT OF GEORGIA

City of Winder v. McDougald, 276 Ga. 866

583 S.E.2d 879 (2003) · No. S02G1156 · Decided July 11, 2003

SUMMARY

The Supreme Court of Georgia held that OCGA § 40-6-6(d)(2), which imposes a reckless-disregard standard for injuries caused by a fleeing suspect, applies only to claims by innocent parties and not to a fleeing suspect's wrongful-death claim. The court reversed the Court of Appeals and concluded that the suspect could potentially recover only upon proof that the officer acted with actual intent to cause injury, an issue not supported by the record. Three justices dissented.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Fletcher, Chief Justice
JURISDICTION	Georgia
DECIDED	July 11, 2003
DOCKET	S02G1156
DISPOSITION	reversed
PROCEDURAL POSTURE	The Supreme Court of Georgia granted certiorari to review the Court of Appeals' affirmance of the denial of the City's motion for summary judgment in a wrongful-death action arising from a police pursuit.
STANDARD OF REVIEW	Summary judgment is appropriate only when the evidence demands a particular finding; the Supreme Court reviewed the statutory interpretation and summary-judgment ruling de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia.
PARTIES	City of Winder v. McDougald et al.

TOPICS

- municipal liability
- statutory interpretation
- torts
- appellate procedure
- standard of review

PRACTICE AREAS

- municipal liability
- torts
- statutory interpretation
- police pursuit liability

QUESTIONS PRESENTED

1. Whether OCGA § 40-6-6(d)(2), which imposes a reckless-disregard standard for injuries caused by a fleeing suspect, governs a wrongful-death claim brought by the fleeing suspect's parents.
2. Whether the City could be held liable under that statute for the suspect's death based on the pursuing officer's alleged reckless disregard of proper police procedures.

HOLDINGS

1. OCGA § 40-6-6(d)(2) does not govern a wrongful-death claim brought on behalf of the fleeing suspect because the statute's reckless-disregard standard was enacted to limit municipal liability for injuries caused to innocent parties, not to expand liability for injuries to the fleeing suspect.

KEY QUOTATIONS

“Because the legislature sought to restrict rather than expand liability, and the statute has been previously construed to protect innocent parties only, we hold that OCGA § 40-6-6(d)(2) does not govern the claim of the fleeing suspect.” (276 Ga. at 868)

FACTUAL BACKGROUND

Fourteen-year-old Ashley McDougald took her father's car without permission and drove in Winder without headlights. A City police officer initiated a pursuit after activating the vehicle's blue lights and siren; McDougald accelerated, lost control, struck a utility pole, and died. Her parents sued the officer and the City for wrongful death.

PROCEDURAL HISTORY

The trial court denied summary judgment to the City, concluding that the City had waived immunity to the extent of its insurance coverage and could be liable if the officer acted negligently. The Court of Appeals affirmed but held that liability under OCGA § 40-6-6(d)(2) required reckless disregard of proper police procedures. The Supreme Court of Georgia reversed.

DISPOSITION

reversed

CASES CITED

- City of Winder v. McDougald, 254 Ga. App. 537, 562 S.E.2d 826 (2002)
- Mixon v. City of Warner Robins, 264 Ga. 385, 444 S.E.2d 761 (1994)
- New Amsterdam Cas. Co. v. Freeland, 216 Ga. 491, 117 S.E.2d 538 (1960)
- Archer v. Johnson, 90 Ga. App. 418, 83 S.E.2d 314 (1954)
- Wilson v. City of Atlanta, 223 Ga. App. 144, 476 S.E.2d 892 (1996)
- Thompson v. Payne, 216 Ga. App. 217, 453 S.E.2d 803 (1995)
- Banks v. Patton, 202 Ga. App. 168, 413 S.E.2d 744 (1991)

- Kidd v. Coates, 271 Ga. 33, 518 S.E.2d 124 (1999)
- Brown v. Liberty County, 271 Ga. 634, 522 S.E.2d 466 (1999)
- Frazier v. Southern Ry. Co., 200 Ga. 590, 37 S.E.2d 774 (1946)
- TelecomUSA, Inc. v. Collins, 260 Ga. 362, 393 S.E.2d 235 (1990)
- Jellico v. Effingham County, 221 Ga. App. 252, 471 S.E.2d 36 (1996)
- Tennessee v. Garner, 471 U.S. 1, 105 S. Ct. 1694, 85 L. Ed. 2d 1 (1985)

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