

SUPREME COURT OF FLORIDA

Frederic Guttenberg, etc., et al. v. The School Board of Broward
County

Guttenberg · No. SC19-487 · Decided September 24, 2020

SUMMARY

The Florida Supreme Court affirmed a circuit court judgment applying the sovereign-immunity damage caps in section 768.28(5), Florida Statutes, to claims arising from the Parkland mass shooting. Relying on *Barnett v. State Department of Financial Services*, the court held that the shooting constituted a single incident or occurrence subject to the aggregate statutory cap.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Chief Justice Canady; Justice Polston; Justice Labarga; Justice Lawson; Justice Muñoz; Justice Curiel; Justice Grosshans
JURISDICTION	Florida
DECIDED	September 24, 2020
DOCKET	SC19-487
DISPOSITION	affirmed
PROCEDURAL POSTURE	Certified appeal from a final declaratory judgment and order granting the School Board's motion for summary judgment.
STANDARD OF REVIEW	The opinion does not expressly state a standard of review.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; binding precedent.
PARTIES	Frederic Guttenberg, as Personal Representative of the Estate of Jaime T. Guttenberg, Andrew Pollack, as Co-Personal Representative of the Estate of Meadow Pollack, Shara Kaplan, as Co-Personal Representative of the Estate of Meadow Pollack, Max Schachter, as Personal Representative of the Estate of Alex Schachter and Benjamin E. Wikander, Philip and April Schentrup, as Co-Representatives for the Estate of Carmen Schentrup, Martin Duque and Daisy Anguiano, as parents of Martin Duque, Manuel Oliver and Patricia Padauy, as Co-Personal Representatives of the Estate of Joaquin Oliver, Stacy Lippel and Linda Beigel, as Personal Representatives of the Estate of Scott

Beigel, Ashley Maria Baez, Isabel Chequer, Anthony and Jennifer Montalto, Kong Feng Wang, and Hui Ying Zhang v. The School Board of Broward County

TOPICS

summary judgment declaratory judgment statutory interpretation appellate jurisdiction civil procedure

PRACTICE AREAS

civil procedure sovereign immunity statutory interpretation appellate procedure declaratory judgment

QUESTIONS PRESENTED

1. Whether the mass shooting constituted a single incident or occurrence for purposes of the aggregate sovereign-immunity damage cap in section 768.28(5), Florida Statutes.
2. Whether the circuit court properly granted summary judgment and entered a final declaratory judgment applying the statutory damage cap.

HOLDINGS

1. For purposes of the sovereign-immunity damage caps in section 768.28(5), Florida Statutes, the mass shooting constituted a single incident or occurrence, and cumulative liability for all resulting injury claims could not exceed the aggregate statutory cap.

KEY QUOTATIONS

“the mass shooting committed by [the shooter] is a single ‘incident or occurrence’ . . . and the cumulative liability for all claims of injury resulting from the incident may not exceed the aggregate cap . . . set forth in the statute.”

FACTUAL BACKGROUND

The case arose from claims related to the mass shooting at Marjory Stoneman Douglas High School and the resulting claims against the School Board. The dispute concerned whether the claims were subject to the aggregate sovereign-immunity damage cap in section 768.28(5), Florida Statutes. The circuit court applied the statutory cap and entered declaratory relief in favor of the School Board.

PROCEDURAL HISTORY

The Circuit Court for the Seventeenth Judicial Circuit in and for Broward County granted the School Board's motion for summary judgment and rendered a final declaratory judgment concerning the applicable sovereign-immunity damage caps. The Fourth District Court of Appeal certified the appeal to the Supreme Court of Florida as presenting issues of great public importance or having a great effect on the proper administration of justice throughout the state.

DISPOSITION

affirmed

CASES CITED

- Barnett v. State Department of Financial Services, No. SC19-87 (Fla. Sept. 24, 2020)
- Guttenberg v. Sch. Bd. of Broward Cty., No. 4D19-0229 (Fla. 4th DCA Mar. 28, 2019)
- Menescal v. School Board of Broward County, No. CACE-18-009397 (Fla. 17th Cir. Ct. Dec. 20, 2018)

OPINION

Frederic Guttenberg, etc. v. The School Board of Broward County

PER CURIAM.

Supreme Court of Florida _____ No. SC19-487 _____ FREDERIC GUTTENBERG, etc., et al., Appellants, vs.

THE SCHOOL BOARD OF BROWARD COUNTY,

Appellee. September 24, 2020 PER CURIAM. We have for review a final judgment of the Circuit Court of the Seventeenth Judicial Circuit in Menescal v. School Board of Broward County, No. CACE-18- 009397 (Fla. 17th Cir. Ct. Dec. 20, 2018), which the Fourth District Court of Appeal certified to this Court as an appeal that requires immediate resolution by this Court because the issues pending “are of great public importance or will have a great effect on the proper administration of justice throughout the state.” Guttenberg v. Sch. Bd. of Broward Cty., No. 4D19-0229 (Fla. 4th DCA Mar. 28, 2019). We have jurisdiction. See art. V, § 3(b)(5), Fla. Const. This case is controlled by our recent decision in Barnett v. State Department of Financial Services, No. SC19-87 (Fla. Sept. 24, 2020). In Barnett, we held that for purposes of the sovereign immunity damage caps set forth in section 768.28(5), Florida Statutes (2010), “the mass shooting committed by [the shooter] is a single ‘incident or occurrence’ . . . and the cumulative liability for all claims of injury resulting from the incident may not exceed the aggregate cap . . . set forth in the statute.” Barnett, No. SC19-87, slip op. at 2. 1 Because the circuit court applied the statute consistent with our decision in Barnett, we affirm the circuit court’s order granting the School Board’s motion for summary judgment and rendering a final declaratory judgment. It is so ordered.

CANADY, C.J., and POLSTON, LABARGA, LAWSON, and MUÑIZ, JJ.,

concur. COURIEL and GROSSHANS, JJ., did not participate.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND,

IF FILED, DETERMINED. Certified Judgments of Trial Courts in and for Broward County – Carol-Lisa Phillips, Judge - Case No. 062018CA009397AXXXCE – An Appeal from the District Court of Appeal, Fourth District, Case No. 4D19-229

1. The only difference between the 2010 version of subsection (5) at issue in

Barnett and the 2018 version at issue here is with respect to the applicable damage caps. In 2010, subsection (5) was amended to raise the individual cap to \$200,000 and the aggregate cap to

\$300,000, effective October 1, 2011. Ch. 2010-26, Laws of Fla. Therefore, the \$200,000/\$300,000 damage cap applies in the present case. -2- Stephen F. Rosenthal, Alissa Del Riego, and Dayron Silverio of Podhurst Orseck, P.A., Miami, Florida, for Appellant Frederic Guttenberg as Personal Representative of the Estate of Jaime T. Guttenberg Joel S. Perwin of Joel S. Perwin, P.A., Miami, Florida; and David W. Brill, Joseph J. Rinaldi, Jr., and Chelsea R. Ewart of Brill & Rinaldi, Weston, Florida, for Appellant Andrew Pollack, as Co-Personal Representative of the Estate of Meadow Pollack Tracy Considine of Tracy Considine, P.A., Jacksonville, Florida, for Appellant Shara Kaplan, as Co-Personal Representative of the Estate of Meadow Pollack Curtis B. Miner, Julie Braman Kane, and Patrick Montoya of Colson Hicks Eidson, P.A., Coral Gables, Florida, for Appellant Max Schachter, as Personal Representative of the Estate of Alex Schachter and Benjamin E. Wikander Robert M. Stein and Jeffrey A. Tew of Rennert Vogel Mandler & Rodriguez, P.A., Miami, Florida, for Appellants Philip and April Schentrup, as Co-Representatives for the Estate of Carmen Schentrup Daman Brody of The Brody Law Firm, LLC, Miami Beach, Florida, for Appellants Martin Duque and Daisy Anguiano, as parents of Martin Duque Michael A. Haggard, Christopher Marlowe, and Todd J. Michaels of Haggard Law Firm, P.A., Coral Gables, Florida, for Appellants Manuel Oliver and Patricia Padauy, as Co-Personal Representatives of the Estate of Joaquin Oliver, and Stacy Lippel and Linda Beigel, as Personal Representative of the Estate of Scott Beigel -3- Stuart Z. Grossman, Alex Arteaga-Gomez, and William P. Mulligan of Grossman Roth Yaffa Cohen, Coral Gables, Florida, for Appellants Ashley Maria Baez, a minor, by and through her parents and natural guardians, Katherine Baez and Juan David Baez; Isabel Chequer, a minor, by and through her parents and natural guardians, Gabriela Chequer and Amin Chequer; Anthony and Jennifer Montalto, as Co-Personal Representatives of the Estate of Gina Rose Montalto; and Kong Feng Wang a/k/a Jacky Wang and Hui Ying Zhang a/k/a Linda Wang, as Co-Personal Representatives of the Estate of Peter Wang Barbara J. Myrick, Fort Lauderdale, Florida; and Eugene K. Pettis and Debra P. Klauber of Haliczzer, Pettis & Schwamm, PA, Fort Lauderdale, Florida, for Appellee Philip M. Burlington and Adam Richardson, Burlington & Rockenbach, P.A., West Palm Beach, Florida, for Amicus Curiae Florida Justice Association Bob L. Harris, James J. Dean, and Cameron H. Carstens of Messer Caparello, P.A., Tallahassee, Florida, for Amici Curiae Panhandle Area Educational Consortium, Calhoun County School Board, Franklin County School Board, Gadsden County School Board, Gulf County School Board, Holmes County School Board, Jackson County School Board, Jefferson County School Board, Liberty County School Board, Madison County School Board, Taylor County School Board, Wakulla County School Board, Walton County School Board, Washington County School Board And Florida A&M University Developmental Research School -4-