

SUPREME COURT OF IDAHO

O'Guin v. Bingham County, 142 Idaho 49

122 P.3d 308 (2005) · No. No. 30344 · Decided October 3, 2005

SUMMARY

The Idaho Supreme Court held that landfill access statutes and regulations could establish negligence per se duties owed by Bingham County, notwithstanding the common-law limitation on a landowner's duty to trespassers. The court vacated summary judgment for the County and remanded for further proceedings, concluding that disputed facts remained regarding causation.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Trout, Justice; Schroeder, Chief Justice; Jones, Justice; Walters, Pro Tem Justice; Eismann, Justice
JURISDICTION	Idaho
DECIDED	October 3, 2005
DOCKET	No. 30344
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the district court's grant of summary judgment for the County on the plaintiffs' negligence per se claim after remand from an earlier appeal.
STANDARD OF REVIEW	The existence of a duty and whether negligence per se applies are questions of law reviewed freely, or de novo.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential
PARTIES	Frank and Leslie O'Guin, individually and as parents and legal guardians of Frank O'Guin, Jr., a minor v. Bingham County, Bingham County Commissioners, Bingham County Public Works

TOPICS

negligence duty of care standard of care premises liability appellate procedure

PRACTICE AREAS

negligence premises liability municipal liability environmental law appellate procedure

QUESTIONS PRESENTED

1. Whether Idaho statutes and administrative regulations governing landfill access established a statutory duty and standard of care supporting a negligence per se claim.
2. Whether the children's status as trespassers required the O'Guins to prove willful or wanton conduct despite the alleged violation of the landfill access regulations.
3. Whether the County was entitled to summary judgment when the record contained a disputed issue of fact concerning whether the regulatory violation proximately caused the children's deaths.
4. Whether the County was entitled to attorney fees on appeal under Idaho Code section 6-918A.

HOLDINGS

1. The Idaho statutes and administrative regulations clearly defined the County's required standard of conduct by requiring the landfill to control public access and to fence or otherwise block access when no attendant was on duty. The alleged violation could constitute negligence per se.
2. Once a statutory or regulatory duty applies, the common-law duty owed by a landowner to trespassers does not impose an additional requirement that the plaintiff plead and prove a willful or wanton violation.
3. Summary judgment was improper because an affidavit created at least a disputed issue of material fact regarding whether the County's violation of the access-control requirements caused the children's deaths.
4. The County was not entitled to attorney fees because there was no indication by clear and convincing evidence that the O'Guins acted in bad faith.

KEY QUOTATIONS

"The O'Guins' use of statutory obligations to establish the County's duty under a negligence per se action replaces the common law duty of landowners to trespassers. Consequently, the district court erred in requiring the O'Guins to plead and prove a willful and wanton violation of the landfill owner regulations." (142 Idaho at 54-55)

"Frequently, unauthorized persons are unfamiliar with the hazards associated with landfill facilities, and consequences of uncontrolled access may include injury and even death." (142 Idaho at 53)

FACTUAL BACKGROUND

On July 7, 1999, Shaun and Alex O'Guin were killed when a section of a pit wall collapsed while they were playing at the Bingham County landfill. The children entered the landfill area through an unlocked schoolyard gate and an unobstructed border from a privately owned field. The landfill was closed that day, no attendant was present, and portions of its boundaries were not fenced or otherwise blocked.

PROCEDURAL HISTORY

The O'Guins sued the County, alleging attractive nuisance and negligence claims arising from the deaths of two children at the County landfill. The district court ultimately granted summary judgment on all claims. In the first appeal, the Idaho Supreme Court affirmed summary judgment on the attractive-nuisance and common-law

negligence claims but remanded the negligence per se claim because the substitute decision had not addressed it. On remand, the district court again granted summary judgment on the negligence per se claim, leading to this appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The grant of summary judgment on the negligence per se claim was vacated, and the case was remanded for further proceedings. Costs on appeal were awarded to the O'Guins.

CASES CITED

- O'Guin v. Bingham County, 139 Idaho 9, 72 P.3d 849 (2003)
- Udy v. Custer County, 136 Idaho 386, 34 P.3d 1069 (2001)
- Ahles v. Tabor, 136 Idaho 393, 34 P.3d 1076 (2001)
- Black Canyon Racquetball Club, Inc. v. Idaho First National Bank, N.A., 119 Idaho 171, 804 P.2d 900 (1991)
- Huyck v. Hecla Mining Co., 101 Idaho 299, 612 P.2d 142 (1980)
- Peterson v. Romine, 131 Idaho 537, 960 P.2d 1266 (1998)
- Sanchez v. Galey, 112 Idaho 609, 733 P.2d 1234 (1986)
- Brizendine v. Nampa Meridian Irrigation District, 97 Idaho 580, 548 P.2d 80 (1976)
- Slade v. Smith's Management Corp., 119 Idaho 482, 808 P.2d 401 (1991)
- Leliefeld v. Johnson, 104 Idaho 357, 659 P.2d 1113 (1983)
- Petersen v. Parry, 92 Idaho 647, 448 P.2d 653 (1968)
- Munns v. Swift Transportation Co., Inc., 138 Idaho 108, 58 P.3d 92 (2002)