

SUPREME COURT OF GEORGIA

Town of Fort Oglethorpe v. Phillips, 224 Ga. 834

165 S.E.2d 141 (1968) · No. 24819 · Decided December 5, 1968

SUMMARY

The Supreme Court of Georgia held that the operation and maintenance of a traffic light is generally a governmental function for which a municipality is not liable in negligence, and that an improperly operating traffic light is not a physical street defect under Code § 69-303. However, the court affirmed because the petition alleged facts sufficient to state a nuisance claim based on the municipality’s knowing maintenance of a dangerous traffic-light condition.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Almand, Presiding Justice
JURISDICTION	Georgia
DECIDED	December 5, 1968
DOCKET	24819
DISPOSITION	affirmed
PROCEDURAL POSTURE	The municipality sought certiorari from the Court of Appeals' reversal of the trial court's order sustaining its general demurrer and dismissing the personal-injury petition against the Town.
STANDARD OF REVIEW	Review of the sufficiency of the petition on general demurrer; the Supreme Court was limited to the allegations of the petition.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion; precedential.
PARTIES	Town of Fort Oglethorpe v. Alvin Doyle Phillips, Jr., by his father and next friend

TOPICS

- municipal liability
- nuisance
- municipal law
- writ of certiorari
- appellate procedure

PRACTICE AREAS

- municipal law
- municipal liability
- torts
- remedies
- appellate procedure

QUESTIONS PRESENTED

1. Whether the maintenance and operation of a municipal traffic light is a governmental or ministerial function for purposes of municipal tort liability.
2. Whether an improperly operating traffic light constitutes a physical defect or obstruction in a street under Code § 69-303.
3. Whether the petition's allegations were sufficient to state a nuisance claim against the municipality despite governmental-function immunity from ordinary negligence claims.

HOLDINGS

1. The maintenance and operation of a traffic-light system is a governmental function, and a municipality is not liable for negligent performance of that function.
2. The improper operation of a municipal traffic light is not a physical defect or obstruction in a street within the meaning of Code § 69-303 and therefore does not convert the traffic-regulation function into a ministerial street-maintenance function.
3. The petition stated a cause of action for the Town's operation and maintenance of a nuisance, notwithstanding that the alleged conduct occurred in the exercise of a governmental function.

KEY QUOTATIONS

“Thus, the improper operation of the traffic light in the instant case is not such a physical obstruction or defect in the street as would change this traffic regulating function from a governmental function to a ministerial function so as to permit an injured party to recover for the municipality's negligent operation of said traffic light.” (837)

“A municipality like any other individual or private corporation may be liable for damages it causes to a third party from the operation or maintenance of a nuisance, irrespective of whether it is exercising a governmental or a ministerial function.” (838)

“Certainly, the petition states facts sufficient to show the active operation and maintenance of a dangerous condition and knowingly allowing such condition to continue to the injury of the plaintiff.” (838)

FACTUAL BACKGROUND

A traffic signal at a Fort Oglethorpe intersection allegedly flashed red or green on all four sides simultaneously. Municipal officials allegedly knew of the defect for more than two weeks, knew that numerous collisions had resulted, and failed to repair the signal. On the day of Phillips's injury, six collisions allegedly occurred at the intersection, including the collision between Phillips's motorbike and an automobile.

PROCEDURAL HISTORY

Phillips sued the Hamiltons and the Town of Fort Oglethorpe for injuries resulting from an intersection collision allegedly caused in part by a defective traffic signal. The trial court sustained the Town's general demurrer and dismissed the petition as to the Town. The Court of Appeals reversed, and the Supreme Court of Georgia granted

the Town's application for certiorari and affirmed the Court of Appeals' judgment on the alternative ground that the petition stated a nuisance claim.

DISPOSITION

affirmed

CASES CITED

- Phillips v. Town of Fort Oglethorpe, 118 Ga. App. 62, 162 S.E.2d 771 (1968)
- Arthur v. City of Albany, 98 Ga. App. 746, 747, 106 S.E.2d 347 (1958)
- Stanley v. City of Macon, 95 Ga. App. 108 (1), 97 S.E.2d 330 (1957)
- City of Rome v. Potts, 45 Ga. App. 406, 410, 165 S.E. 131 (1932)
- Dorminey v. City of Montgomery, 232 Ala. 47, 166 So. 689
- Avey v. City of West Palm Beach, 152 Fla. 717, 12 So. 2d 881
- Auslander v. City of St. Louis, 332 Mo. 145, 56 S.W.2d 778
- Powell v. City of Nashville, 167 Tenn. 334, 69 S.E.2d 894
- Sandmann v. Sheehan, 279 Ky. 614, 131 S.E.2d 484
- Martin v. City of Canton, 41 Ohio App. 420, 180 N.E. 78
- Parsons v. City of New York, 273 N.Y. 547, 7 N.E.2d 685
- Vickers v. City of Camden, 122 N.J.L. 14, 3 A.2d 613
- Suslander v. City of St. Louis, 332 Mo. 145, 154, 56 S.W.2d 778
- Hanson v. Berry, 54 N.D. 487, 209 N.W. 1002
- Ingram v. City of Acworth, 90 Ga. App. 719, 720, 84 S.E.2d 99 (1954)
- Archer v. City of Austell, 68 Ga. App. 493, 497, 23 S.E.2d 512 (1943)
- Delta Air Corp. v. Kersey, 193 Ga. 862, 870, 20 S.E.2d 245, 140 A.L.R. 1352 (1942)
- South-land Coffee Co. v. City of Macon, 60 Ga. App. 253, 257, 3 S.E.2d 739 (1939)
- City of Atlanta v. Due, 42 Ga. App. 797, 803, 157 S.E. 256 (1931)