

## SUPREME COURT OF GEORGIA

### Grammens v. Dollar, 287 Ga. 618

697 S.E.2d 775 (2010) · No. S09G0510 · Decided July 5, 2010

#### SUMMARY

The Georgia Supreme Court held that a teacher was protected by official immunity from personal liability arising from a student's eye injury during a bottle-rocket science experiment. The court concluded that the applicable eye-protection policy required the teacher to exercise discretion in determining whether the experiment involved "explosive materials," rather than imposing a ministerial duty. The court reversed the Court of Appeals, with three justices dissenting.

#### CASE DETAILS

|                       |                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Georgia                                                                                                                                                                          |
| WRITING FOR THE COURT | Benham, Justice; All other participating Justices                                                                                                                                                 |
| JURISDICTION          | Georgia                                                                                                                                                                                           |
| DECIDED               | July 5, 2010                                                                                                                                                                                      |
| DOCKET                | S09G0510                                                                                                                                                                                          |
| DISPOSITION           | reversed                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | The Supreme Court of Georgia granted Grammens's petition for a writ of certiorari to review the Court of Appeals' reversal of summary judgment entered in her favor on official-immunity grounds. |
| STANDARD OF REVIEW    | The court reviewed the legal characterization of the teacher's act as ministerial or discretionary in the context of summary judgment and official immunity.                                      |
| PRECEDENTIAL VALUE    | Published Georgia Supreme Court opinion; precedential.                                                                                                                                            |
| PARTIES               | Patricia Grammens v. John F. Dollar, individually and on behalf of David Dollar                                                                                                                   |

#### TOPICS

negligence personal injury appellate procedure standard of review torts

#### PRACTICE AREAS

torts governmental immunity education law

## QUESTIONS PRESENTED

1. Whether the school-board eye-protection policy imposed a ministerial duty on Grammens to require students to wear eye protection during the bottle-rocket experiment.
2. Whether Grammens was protected by official immunity from personal liability for failing to require students to wear eye protection.

## HOLDINGS

1. The policy did not impose a ministerial duty because its application depended on whether the experiment involved 'caustic or explosive materials,' an undefined condition requiring the teacher to exercise personal deliberation and judgment.
2. Official immunity shielded Grammens from personal liability because the alleged failure to require eye protection involved a discretionary act, and there was no evidence of malice, willfulness, or intent to injure.

## KEY QUOTATIONS

*“A ministerial act is commonly one that is simple, absolute, and definite, arising under conditions admitted or proved to exist, and requiring merely the execution of a specific duty.”* (697 S.E.2d at 777)

*“A discretionary act, however, calls for the exercise of personal deliberation and judgment, which in turn entails examining the facts, reaching reasoned conclusions, and acting on them in a way not specifically directed.”* (697 S.E.2d at 777)

*“In order for the written policy to impose a ministerial duty, the policy must mandate simple, absolute, and definite action and require the execution of a specific task without any exercise of discretion.”* (697 S.E.2d at 778)

## FACTUAL BACKGROUND

David Dollar suffered an eye injury during an eighth-grade science experiment in which students launched a water-filled two-liter plastic bottle using air pressure. David was struck in the eye by the metal U-shaped pin used to hold the bottle in place when he pulled a string to remove the pin. His father sued the teacher, principal, and superintendent, alleging that the injury resulted from failure to comply with a school-board policy requiring industrial-quality eye protection for courses involving, among other things, caustic or explosive materials.

## PROCEDURAL HISTORY

The trial court granted summary judgment to the teacher, principal, and superintendent, concluding that the alleged negligence involved discretionary acts protected by official immunity. The Court of Appeals affirmed as to the principal and superintendent but reversed as to Grammens, holding that the eye-protection policy imposed a ministerial duty on her. The Supreme Court of Georgia reversed the Court of Appeals as to Grammens.

## DISPOSITION

reversed

#### CASES CITED

- Cameron v. Lang, 274 Ga. 122, 549 S.E.2d 341 (2001)
- McDowell v. Smith, 285 Ga. 592, 678 S.E.2d 922 (2009)
- Murphy v. Bajjani, 282 Ga. 197, 647 S.E.2d 54 (2007)
- Nelson v. Spalding County, 249 Ga. 334, 290 S.E.2d 915 (1982)
- Meagher v. Quick, 264 Ga. App. 639, 594 S.E.2d 182 (2003)
- Happoldt v. Kutscher, 256 Ga. App. 96, 567 S.E.2d 380 (2002)
- Standard v. Hobbs, 263 Ga. App. 873, 589 S.E.2d 634 (2003)
- Perkins v. Morgan County School Dist., 222 Ga. App. 831, 476 S.E.2d 592 (1996)
- Wanless v. Tatum, 244 Ga. App. 882, 536 S.E.2d 308 (2000)
- Lincoln County v. Edmond, 231 Ga. App. 871, 501 S.E.2d 38 (1998)
- Dollar v. Grammens, 294 Ga. App. 888, 670 S.E.2d 555 (2008)