

SUPREME COURT OF OREGON

Garrison v. Deschutes County, 334 Or. 264

48 P.3d 807 (2002) · No. SC S46886 · Decided June 21, 2002

SUMMARY

The Supreme Court of Oregon held that Deschutes County was immune under the Oregon Tort Claims Act from negligence claims challenging the design and operation of a refuse transfer station. County officials had exercised delegated policy discretion after weighing safety, cost, and operational considerations, and the court held that their allegedly negligent design choice was protected by discretionary-function immunity. The court also upheld summary judgment on the failure-to-warn claim because the plaintiffs were fully aware of the obvious drop-off and the absence of a warning did not cause their injuries.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Gillette, J.; Carson, Chief Justice; Gillette, Justice; Durham, Justice; Leeson, Justice; Riggs, Justice
JURISDICTION	Oregon
DECIDED	June 21, 2002
DOCKET	SC S46886
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs sought review of a Court of Appeals decision affirming the circuit court's grant of summary judgment to Deschutes County in a personal-injury negligence action.
STANDARD OF REVIEW	On summary judgment, the court views the facts and all reasonable inferences in favor of the nonmoving party. Summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Gary Garrison, Heather Garrison v. Deschutes County

TOPICS

municipal liability

premises liability

negligence

duty of care

statutory interpretation

PRACTICE AREAS

torts

municipal liability

premises liability

summary judgment

QUESTIONS PRESENTED

1. Whether the County's decisions to design and operate the refuse transfer station without additional fall-protection barriers and to require patrons to back vehicles toward the edge were protected discretionary functions under ORS 30.265(3)(c).
2. Whether the County's delegated officials could invoke discretionary-function immunity even though they were not the county commission itself.
3. Whether the County's failure to warn was a legally sufficient cause of injury when the plaintiffs already knew of the obvious drop-off and the lack of a barrier.

HOLDINGS

1. The County was immune under ORS 30.265(3)(c) from claims based on its decisions to design and operate the refuse transfer station without additional barriers and to require patrons to back vehicles onto the platform. Those decisions resulted from delegated policy judgments that weighed competing safety, cost, maintenance, and usability considerations, even if the decisions were negligent or constituted an abuse of discretion.
2. Summary judgment was proper on the failure-to-warn claim because the undisputed evidence established no causal link between the absence of a warning and Garrison's injuries. Plaintiffs knew of the drop-off and the absence of a protective barrier, so a warning would not have exposed them to a lower risk or altered their conduct.

KEY QUOTATIONS

*"A public body that owes a particular duty of care * * * has wide policy discretion in choosing the means by which to carry out that duty. * * * The range of permissible choices does not, however, include the choice of not exercising care."* (334 Or. 273; 48 P.3d 812)

"Plaintiffs wish to argue that the county should have done something more, or something different, but that argument is the kind of second-guessing that is defeated by immunity under ORS 30.265(3)(c)." (334 Or. 276; 48 P.3d 814)

"Given that testimony, no reasonable juror could find that a warning would have made a difference." (334 Or. 279; 48 P.3d 815)

FACTUAL BACKGROUND

Deschutes County operated a refuse transfer station using a raised concrete slab from which patrons backed vehicles to dump refuse into trailers on a lower slab. The County installed a railroad tie to stop vehicles but no fence, railing, or other fall-protection barrier, and posted no warning signs. County officials with delegated authority considered alternative barriers and operating methods, weighed safety, cost, maintenance, and usability concerns, and decided that additional barriers would create greater hazards. Gary Garrison, who had used the

facility before and knew of the drop-off and lack of a protective barrier, fell from the upper slab while attempting to exit the back of his pickup after dumping refuse.

PROCEDURAL HISTORY

Gary and Heather Garrison sued Deschutes County after Gary fell at the county's refuse transfer station, alleging negligence based on the facility's design and operation and failure to warn. The circuit court granted the County's summary-judgment motion under the discretionary-function immunity provision of the Oregon Tort Claims Act and also found no causation on the failure-to-warn claim. The Court of Appeals affirmed. The Oregon Supreme Court allowed review and affirmed both decisions.

DISPOSITION

affirmed

CASES CITED

- Garrison v. Deschutes County, 162 Or. App. 160, 986 P.2d 62 (1999)
- Robinson v. Lamb's Wilsonville Thriftway, 332 Or. 453, 455, 31 P.3d 421 (2001)
- Fuhrer v. Gearhart By The Sea, Inc., 306 Or. 434, 438, 760 P.2d 874 (1988)
- Woolston v. Wells, 297 Or. 548, 557-58, 687 P.2d 144 (1984)
- McBride v. Magnuson, 282 Or. 433, 437-38, 578 P.2d 1259 (1978)
- Lowrimore v. Dimmitt, 310 Or. 291, 296, 797 P.2d 1027 (1990)
- Mosley v. Portland School District No. 1J, 315 Or. 85, 92, 843 P.2d 415 (1992)
- Hawkins v. City of La Grande, 315 Or. 57, 65, 843 P.2d 400 (1992)
- Little v. Wimmer, 303 Or. 580, 588-89, 739 P.2d 564 (1987)
- Miller v. Grants Pass Irrigation, 297 Or. 312, 320-21, 686 P.2d 324 (1984)
- Bradford v. Davis, 290 Or. 855, 865, 626 P.2d 1376 (1981)
- Fazzolari v. Portland School District No. 1J, 303 Or. 1, 22 n. 20, 734 P.2d 1326 (1987)
- Stevenson v. State of Oregon, 290 Or. 3, 619 P.2d 247 (1980)