

SUPREME COURT OF ILLINOIS

Moore v. Chicago Park District

2012 IL 112788 (Ill. 2012) · No. 112788 · Decided October 18, 2012

SUMMARY

The Illinois Supreme Court held that snow and ice, including an allegedly unnatural accumulation caused by snow removal, constitute a condition of public property under section 3-106 of the Tort Immunity Act. Accordingly, recreational-use immunity applied to the Chicago Park District, and the court reversed the appellate court's judgment and remanded the case.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Karmeier; Justice Thomas; Justice Garman; Justice Burke; Justice Theis; Chief Justice Kilbride; Justice Freeman
JURISDICTION	Illinois
DECIDED	October 18, 2012
DOCKET	112788
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeal under Illinois Supreme Court Rule 308 from a certified question concerning the applicability of section 3-106 of the Tort Immunity Act to an injury involving an unnatural accumulation of snow and ice on recreational public property.
STANDARD OF REVIEW	Questions certified under Illinois Supreme Court Rule 308 and issues of statutory construction are reviewed de novo.
PRECEDENTIAL VALUE	Published Illinois Supreme Court opinion; binding precedent in Illinois.
PARTIES	Chicago Park District v. Roberta Minor Moore, Special Administrator of the Estate of Sylvia Lee Moore, Deceased

TOPICS

- municipal liability
- statutory interpretation
- appellate procedure
- standard of review
- negligence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether an unnatural accumulation of snow and ice constitutes the existence of a condition of public property under section 3-106 of the Illinois Local Governmental and Governmental Employees Tort Immunity Act.
2. Whether section 3-106 immunity incorporates the natural-accumulation rule in section 3-105.
3. Whether snow and ice accumulated on recreational public property constitute a condition of the property rather than an activity conducted on the property.

HOLDINGS

1. Section 3-106 does not incorporate the natural-accumulation rule in section 3-105. Therefore, whether the snow and ice accumulated naturally or unnaturally is irrelevant to the application of section 3-106 immunity.
2. Snow and ice, including movable accumulated snow and ice, constitute a condition of public property under section 3-106, regardless of whether the accumulation is natural or unnatural.
3. Section 3-106 immunizes the Chicago Park District from the ordinary-negligence claim because the alleged injury was caused by the condition of recreational public property—the accumulated snow and ice—not by an activity conducted on otherwise safe property.

KEY QUOTATIONS

“Consequently, the fact that the snow and ice in this case allegedly accumulated unnaturally is irrelevant to the question of immunity under section 3-106.” (¶ 13)

“Therefore, the question of whether an accumulation of snow and ice constitutes the “existence of a condition of any public property,” as this expression is used in section 3-106 of the Tort Immunity Act, must be answered in the affirmative.” (¶ 24)

FACTUAL BACKGROUND

Sylvia Lee Moore fell in the parking lot of the Chicago Park District's Fernwood Park Fieldhouse after attempting to step over approximately five inches of snow accumulated at the edge of the lot following snow-plowing operations. She fractured her femur, suffered complications that caused brain damage, and later died. Her estate alleged that the Park District negligently shoveled and plowed snow into mounds that created an unnatural condition in the parking lot and walkway.

PROCEDURAL HISTORY

The circuit court of Cook County denied the Chicago Park District's motion for summary judgment based on section 3-106 immunity, relying on *Stein v. Chicago Park District*. The circuit court later certified a question for interlocutory appeal. The appellate court answered the question in the negative, and the Illinois Supreme Court granted leave to appeal, reversed the appellate court, and remanded to the circuit court. The Supreme Court also

exercised supervisory authority because the circuit court had improperly vacated the interlocutory order that was necessary for Rule 308 jurisdiction.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the circuit court of Cook County for further proceedings consistent with the opinion, including application of section 3-106 immunity to the plaintiff's claims.

CASES CITED

- Simmons v. Homatas, 236 Ill. 2d 459, 466 (2010)
- Harvest Church of Our Lord v. City of East St. Louis, 407 Ill. App. 3d 649, 652 (2011)
- Barbara's Sales, Inc. v. Intel Corp., 227 Ill. 2d 45, 57-58 (2007)
- Bubba v. Springfield School District 186, 167 Ill. 2d 372, 378 (1995)
- Kayser v. Village of Warren, 303 Ill. App. 3d 198, 200 (1999)
- Ries v. City of Chicago, 242 Ill. 2d 205, 215-16 (2011)
- Sylvester v. Chicago Park District, 179 Ill. 2d 500, 508 (1997)
- Ziencina v. County of Cook, 188 Ill. 2d 1, 9-14 (1999)
- Lansing v. County of McLean, 69 Ill. 2d 562, 572 (1978)
- McCuen v. Peoria Park District, 163 Ill. 2d 125, 128-30 (1994)
- Vilardo v. Barrington Community School District 220, 406 Ill. App. 3d 713, 722 (2010)
- Nelson v. Northeast Illinois Regional Commuter Railroad Corp., 364 Ill. App. 3d 181, 190 (2006)
- Stein v. Chicago Park District, 323 Ill. App. 3d 574, 576-77 (2001)
- Callaghan v. Village of Clarendon Hills, 401 Ill. App. 3d 287, 299 (2010)
- Grundy v. Lincoln Park Zoo, 2011 IL App (1st) 102686, ¶ 11
- Rexroad v. City of Springfield, 331 Ill. App. 3d 545, 549 (2001), rev'd on other grounds, 207 Ill. 2d 33 (2003)
- Rexroad v. City of Springfield, 207 Ill. 2d 33, 41 (2003)
- Kirnbauer v. Cook County Forest Preserve District, 215 Ill. App. 3d 1013 (1991)
- Majewski v. Chicago Park District, 177 Ill. App. 3d 337 (1988)
- Lewis v. Jasper County Community Unit School District No. 1, 258 Ill. App. 3d 419, 422 (1994)
- In re Estate of Funk, 221 Ill. 2d 30, 97-98 (2006)
- People v. Lyles, 217 Ill. 2d 210, 216 (2005)
- State Building Venture v. O'Donnell, 239 Ill. 2d 151, 160 (2010)
- Blum v. Koster, 235 Ill. 2d 21, 29 (2010)
- Van Meter v. Darien Park District, 207 Ill. 2d 359, 368 (2003)

