

SUPREME COURT OF KANSAS

Lane v. Atchison Heritage Conference Center, Inc., 283 Kan. 439

153 P.3d 541 (2007) · No. No. 94,634 · Decided March 16, 2007

SUMMARY

The Kansas Supreme Court held that the recreational-use exception to the Kansas Tort Claims Act applied to the Atchison Heritage Conference Center, thereby immunizing it from liability for ordinary negligence. The court rejected the Court of Appeals' requirement that recreation be the facility's primary purpose, explaining that immunity depends on whether the property was intended or permitted to be used for recreation. The court reversed the Court of Appeals and affirmed the district court's judgment for the conference center.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Davis, J.; Johnson, J. (not participating); Larson, S.J.; Lockett, J., Retired; Nuss, J. (not participating)
JURISDICTION	Kansas
DECIDED	March 16, 2007
DOCKET	No. 94,634
DISPOSITION	reversed
PROCEDURAL POSTURE	The district court granted the defendant's motion for summary judgment based on immunity under the recreational-use exception to the Kansas Tort Claims Act. The Kansas Court of Appeals reversed. The Supreme Court of Kansas granted review.
STANDARD OF REVIEW	Unlimited review applies to the question of statutory interpretation and whether the recreational-use exception renders the governmental entity immune from liability.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Howard Lane v. Atchison Heritage Conference Center, Inc.

TOPICS

[municipal liability](#)[statutory interpretation](#)[plain meaning rule](#)[premises liability](#)[negligence](#)

PRACTICE AREAS

torts

municipal liability

statutory interpretation

premises liability

QUESTIONS PRESENTED

1. Whether the recreational-use exception to the Kansas Tort Claims Act, K.S.A. 2006 Supp. 75-6104(o), applies to a multipurpose public conference center when recreational use is not the facility's primary purpose.
2. Whether AHCC was immune from Lane's ordinary-negligence claim because the conference center was intended or permitted to be used for recreational purposes.

HOLDINGS

1. The recreational-use exception does not require recreation to be the primary purpose of maintaining the public facility. The Court of Appeals erred by imposing a primary-purpose requirement.
2. AHCC was entitled to immunity under the recreational-use exception because the conference center had been used on numerous occasions for recreational purposes, including the event at which Lane was injured.

KEY QUOTATIONS

"Immunity depends on the character of the property in question, i.e., whether the property was 'intended or permitted to be used for recreational purposes.'" (at 546)

"The recreational use exception to the KTCA applies when property is 'intended or permitted' to be used for recreational purposes." (at 550)

"There is nothing in the statutory language, or in any prior opinion of this court, that would support the Court of Appeals' interpretation that the application of the recreational use exception turns on an analysis of a facility's primary purpose." (at 550)

FACTUAL BACKGROUND

Howard Lane slipped and fell on ice at the loading dock of the Atchison Heritage Conference Center on December 31, 2002, while loading musical equipment after a public New Year's Eve dance. The ice and water had been drained from a portable beverage cart during the event. The City of Atchison owned the conference center and leased it to AHCC, which had permitted numerous recreational activities, including dances, weddings, receptions, theater events, concerts, and beauty pageants.

PROCEDURAL HISTORY

Lane sued AHCC for negligence after slipping on ice at the conference center's loading dock. The district court granted summary judgment on the ordinary-negligence claim after finding the recreational-use exception applicable, denied summary judgment on a proposed gross-and-wanton-negligence claim, and later entered final judgment after Lane voluntarily withdrew that claim. The Court of Appeals reversed, reasoning that recreational

use was incidental to the facility's primary purpose. The Supreme Court of Kansas reversed the Court of Appeals and affirmed the district court.

DISPOSITION

reversed

CASES CITED

- Wilson v. Kansas State University, 273 Kan. 584, 44 P.3d 454 (2002)
- Robinett v. The Haskell Co., 270 Kan. 95, 12 P.3d 411 (2000)
- Ballweg v. Farmers Insurance Co., 228 Kan. 506, 618 P.2d 1171 (1980)
- Jackson v. U.S.D. No. 259, 268 Kan. 319, 995 P.2d 844 (2000)
- Barrett v. U.S.D. No. 259, 272 Kan. 250, 32 P.3d 1156 (2001)
- Gonzales v. Board of Shawnee County Commissioners, 247 Kan. 423, 799 P.2d 491 (1990)
- Nichols v. U.S.D. No. 400, 246 Kan. 93, 785 P.2d 986 (1990)
- Jackson v. U.S.D. No. 259, 29 Kan. App. 2d 826, 31 P.3d 989 (2001)
- Wright v. U.S.D. No. 379, 28 Kan. App. 2d 177, 14 P.3d 437 (2000)
- Bubb v. Springfield School District, 167 Ill. 2d 372, 657 N.E.2d 887 (1995)
- Ozük v. River Grove Board of Education, 281 Ill. App. 3d 239, 666 N.E.2d 687 (1996)
- Diamond v. Springfield Metropolitan Exposition Auditorium Authority, 44 F.3d 599 (7th Cir. 1995)
- Annen v. Village of McNabb, 192 Ill. App. 3d 711, 548 N.E.2d 1383 (1990)
- Kayser v. Village of Warren, 303 Ill. App. 3d 198, 707 N.E.2d 285 (1999)