

SUPREME COURT OF WASHINGTON

Bishop v. Miche

Bishop v. Miche, 137 Wash. 2d 518 (1999) · Decided March 25, 1999

SUMMARY

The Washington Supreme Court considered whether a county probation officer owed a duty to protect third parties from reasonably foreseeable harm caused by a probationer's dangerous propensities, and whether quasi-judicial immunity barred liability. The court held that the county probation officer owed such a duty and that quasi-judicial immunity did not categorically preclude negligent-supervision liability. Nevertheless, the court held that the probation judge's intervening decision not to revoke probation broke proximate causation as a matter of law and affirmed summary judgment for King County.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Madsen, J.; Guy, C.J.; Durham, J.; Smith, J.; Johnson, J.; Alexander, J.; Talmadge, J.; Sanders, J.; Dolliver, J. Pro Tem.
JURISDICTION	Washington
DECIDED	March 25, 1999
DISPOSITION	reversed
PROCEDURAL POSTURE	The parents of a child killed by an intoxicated probationer sued the probationer and King County for wrongful death and negligent supervision. The superior court granted King County summary judgment. The Court of Appeals reversed, and the Washington Supreme Court granted review.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, with the same inquiry as the trial court; the facts and reasonable inferences are viewed in the light most favorable to the nonmoving party. Questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Bishop v. Miche, King County

TOPICS

- municipal liability
- duty of care
- proximate cause
- summary judgment
- wrongful death

PRACTICE AREAS

Torts

Wrongful death

Municipal liability

Civil procedure

QUESTIONS PRESENTED

1. Whether a county probation officer owes a duty to exercise reasonable care to protect others from reasonably foreseeable harm resulting from a probationer's dangerous propensities under the rule of *Taggart v. State*.
2. Whether quasi-judicial immunity precludes liability for negligent supervision by a county probation officer.
3. Whether summary judgment was proper because any negligent supervision by the probation officer could not, as a matter of law, be the proximate cause of the accident.

HOLDINGS

1. A county probation officer may owe a duty to exercise reasonable care to control a probationer and prevent reasonably foreseeable harm to others resulting from the probationer's dangerous propensities. A custodial relationship or power to arrest is not required.
2. Quasi-judicial immunity does not categorically preclude liability for a county probation officer's negligent failure to adequately monitor and report probation violations. It does protect sentencing decisions and negligence based on the officer's failure to challenge fraudulent representations made to the sentencing court.
3. Summary judgment for King County was proper because proximate cause was lacking as a matter of law. The district court judge's decision not to revoke Miche's probation after learning of his violation, alcohol problem, and need for treatment broke the causal connection between any negligent supervision and the fatal accident.

KEY QUOTATIONS

“Accordingly, if the parole officer fails to take reasonable care to control the parolee, but nevertheless acts in furtherance of a statutory duty and in substantial compliance with the directives of superiors and relevant regulatory guidelines, the officer enjoys qualified personal immunity, but the immunity does not run to the State.” (525)

“The relevant inquiry is the relationship of the officer with the parolee. The County urges, though, as does Amicus Curiae State of Washington, that Taggart should be overruled because it wrongly concluded that a custodial relation is not required before a duty under sections 315 and 319 of the Restatement (Second) of Torts may arise.” (528)

“We conclude that the county probation officer owed a duty to exercise reasonable care to control Miche to prevent reasonably foreseeable harm to others resulting from his dangerous propensities.” (531)

“As a matter of law, the judge's decision not to revoke probation under these circumstances broke any causal connection between any negligence and the accident.” (532)

FACTUAL BACKGROUND

Steven Miche was on King County probation after receiving a suspended sentence for driving under the influence, although the sentencing court lacked his true identity and extensive driving-related criminal history. His probation officer discovered the history, required alcohol-related conditions and treatment, and reported some violations, but Miche continued to have alcohol-related compliance problems and was convicted of driving while his license was suspended. At a review hearing, the district court knew of the violation, Miche's serious alcohol problem, sporadic Alcoholics Anonymous attendance, and scheduled intensive treatment, but declined to revoke probation. Two days later, before treatment began, Miche drove while intoxicated and killed Alexander Bishop.

PROCEDURAL HISTORY

Steven Miche, a King County probationer with a history of alcohol-related driving offenses, drove while intoxicated and caused Alexander Bishop's death. The Bishops sued Miche and King County, alleging negligent supervision. The superior court granted the County summary judgment; the Court of Appeals reversed; the Supreme Court held that the County's probation officer owed a duty to control Miche but that proximate cause was lacking as a matter of law because the district court judge's decision not to revoke probation broke the causal chain.

DISPOSITION

reversed

CASES CITED

- Taggart v. State, 118 Wn.2d 195, 822 P.2d 243 (1992)
- Honcoop v. State, 111 Wn.2d 182, 193, 759 P.2d 1188 (1988)
- Sherman v. State, 128 Wn.2d 164, 183, 905 P.2d 355 (1995)
- Savage v. State, 127 Wn.2d 434, 899 P.2d 1270 (1995)
- Plotkin v. State, 64 Wn. App. 373, 826 P.2d 221 (1992)
- A.L. v. Commonwealth, 402 Mass. 234, 521 N.E.2d 1017 (1988)
- Acevedo v. Pima County Adult Probation Dep't, 142 Ariz. 319, 690 P.2d 38, 44 A.L.R.4th 631 (1984)
- Sterling v. Bloom, 111 Idaho 211, 723 P.2d 755 (1986)
- Harris v. State, 123 Idaho 295, 847 P.2d 1156 (1992)
- McKenna v. Edwards, 65 Wn. App. 905, 916, 830 P.2d 385 (1992)
- State v. Ray, 130 Wn.2d 673, 678, 926 P.2d 904 (1996)
- In re Rights to Waters of Stranger Creek, 77 Wn.2d 649, 653, 466 P.2d 508 (1970)
- Keene v. Edie, 131 Wn.2d 822, 831, 935 P.2d 588 (1997)
- Payne v. Tennessee, 501 U.S. 808, 827, 111 S. Ct. 2597, 115 L. Ed. 2d 720 (1991)
- Petersen v. State, 100 Wn.2d 421, 671 P.2d 230 (1983)
- Hertog v. City of Seattle, 88 Wn. App. 41, 63, 943 P.2d 1153 (1997)

- Metlow v. Spokane Alcoholic Rehabilitation Ctr., Inc., 55 Wn. App. 845, 781 P.2d 498 (1989)
- Schooley v. Pinch's Deli Market, Inc., 134 Wn.2d 468, 482, 951 P.2d 749 (1998)

CITED IN

- Bishop v. Miche, Bishop v. Miche, 137 Wash. 2d 518, 973 P.2d 465 (1999)
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