

SUPREME COURT OF NEBRASKA

Willet v. County of Lancaster

271 Neb. 570 (2006) · No. No. S-05-204 · Decided May 5, 2006

SUMMARY

The Nebraska Supreme Court affirmed summary judgment for Lancaster County in a negligence action arising from a collision at an allegedly obstructed intersection. Assuming the County owed and breached a duty concerning the berm or roadway warning, the court held that the other driver's unforeseeable failure to stop and entry into the intersection at high speed constituted an efficient intervening cause that broke proximate causation.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Connolly, J.; Hendry, C.J.; Gerrard, J.; Stephan, J.; McCormack, J.; Miller-Lerman, J.; Hannon, Judge, Retired
JURISDICTION	Nebraska
DECIDED	May 5, 2006
DOCKET	No. S-05-204
DISPOSITION	affirmed
PROCEDURAL POSTURE	Willet appealed the district court's grant of summary judgment for Lancaster County in his negligence action arising from a motor-vehicle collision.
STANDARD OF REVIEW	Summary judgment is proper when the pleadings and admitted evidence show no genuine issue of material fact or ultimate inference and the moving party is entitled to judgment as a matter of law. The appellate court views the evidence favorably to the nonmoving party and gives that party the benefit of reasonable inferences; the moving party bears the burden of demonstrating the absence of a genuine issue of material fact and entitlement to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Todd Willet v. County of Lancaster, Nebraska

TOPICS

summary judgment

proximate cause

municipal liability

negligence

standard of review

PRACTICE AREAS

torts

municipal law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether summary judgment was proper on the ground that Lancaster County's alleged failure to maintain the intersection or warn motorists was not a proximate cause of the collision.
2. Whether McMackin's negligent failure to obey the stop sign and entry into the obstructed intersection at high speed was an unforeseeable efficient intervening cause that cut off the County's liability.

HOLDINGS

1. A claimant under the Political Subdivisions Tort Claims Act must prove duty, breach of duty, proximate causation, and damages; therefore, even assuming that the County waived immunity and breached a duty, Willet could not recover absent proof that the County's conduct proximately caused the collision.
2. McMackin's negligent failure to obey the stop sign and his entry into the obstructed intersection at approximately 45 miles per hour were unforeseeable to the County and constituted an efficient intervening cause that broke the causal connection between any County negligence and the collision.
3. Summary judgment for Lancaster County was proper because the undisputed evidence established that McMackin's negligence was an efficient intervening cause and no genuine issue of material fact existed regarding proximate causation.

KEY QUOTATIONS

"An efficient intervening cause is new and independent conduct of a third person, which itself is a proximate cause of the injury in question and breaks the causal connection between the original conduct and the injury."

"In other words, an intervening act cuts off a tort-feasor's liability only when the intervening cause is not foreseeable."

FACTUAL BACKGROUND

Todd Willet was seriously injured when his vehicle collided with a vehicle driven by Ronald P. McMackin at an intersection where McMackin ran a stop sign. Willet alleged that a private landowner's berm encroached into the county right-of-way and obstructed the drivers' views, and that Lancaster County negligently failed to maintain the intersection or warn motorists. The evidence showed that McMackin entered the intersection at approximately 45 miles per hour despite the stop sign, and that he could have avoided the collision by stopping or proceeding cautiously.

PROCEDURAL HISTORY

Willet sued Lancaster County under the Political Subdivisions Tort Claims Act, alleging that a berm obstructed visibility at an intersection and contributed to the collision. The district court granted the County summary

judgment on several alternative grounds. The Nebraska Supreme Court affirmed on the ground that the County's conduct was not a proximate cause of the collision because the other driver's negligence was an efficient intervening cause.

DISPOSITION

affirmed

CASES CITED

- Strong v. Omaha Constr. Indus. Pension Plan, 270 Neb. 1, 701 N.W.2d 320 (2005)
- Blinn v. Beatrice Community Hosp. & Health Ctr., 270 Neb. 809, 708 N.W.2d 235 (2006)
- Cerny v. Longley, 270 Neb. 706, 708 N.W.2d 219 (2005)
- Woollen v. State, 256 Neb. 865, 593 N.W.2d 729 (1999)
- Scholl v. County of Boone, 250 Neb. 283, 549 N.W.2d 144 (1996)
- Zeller v. County of Howard, 227 Neb. 667, 419 N.W.2d 654 (1988)
- Greening v. School Dist. of Millard, 223 Neb. 729, 393 N.W.2d 51 (1986)
- Shelton v. Board of Regents, 211 Neb. 820, 320 N.W.2d 748 (1982)
- Delaware v. Valls, 226 Neb. 140, 409 N.W.2d 621 (1987)
- Floyd v. Worobec, 248 Neb. 605, 537 N.W.2d 512 (1995)
- Paddack v. Patrick, 163 Neb. 355, 79 N.W.2d 701 (1956)

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