

SUPREME COURT OF TEXAS

City of Dallas v. Reed

258 S.W.3d 620 (Tex. 2008) · No. No. 07-0469 · Decided May 16, 2008

SUMMARY

The Supreme Court of Texas held that a two-inch elevation difference between traffic lanes was not a special defect under the Texas Tort Claims Act because it was not the same kind or class as an excavation or obstruction and did not present an unusually dangerous condition. The Court further held that the City of Dallas lacked actual knowledge that the condition created an unreasonable risk of harm, so the condition did not support a premises-defect claim. The Court reversed the court of appeals and dismissed the case.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Texas
DECIDED	May 16, 2008
DOCKET	No. 07-0469
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The City appealed an order denying its plea to the jurisdiction in Reed's premises-liability action. The court of appeals affirmed, and the Supreme Court of Texas granted review based on an asserted conflict with prior decisions.
STANDARD OF REVIEW	The existence of a special defect is a question of law reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	City of Dallas v. Kenneth Reed

TOPICS

- premises liability
- municipal liability
- interlocutory appeal
- appellate jurisdiction
- standard of review

PRACTICE AREAS

- premises liability
- municipal liability
- appellate procedure

QUESTIONS PRESENTED

1. Whether a two-inch elevation difference between traffic lanes is a special defect under the Texas Tort Claims Act as a matter of law.
2. Whether the roadway condition could support a premises-defect claim based on the City's actual knowledge of an unreasonable risk of harm.
3. Whether the Supreme Court of Texas had jurisdiction over the interlocutory appeal because the court of appeals' decision conflicted with prior decisions.

HOLDINGS

1. The Supreme Court of Texas had jurisdiction because the court of appeals' decision was inconsistent with prior decisions of the Supreme Court of Texas in a manner requiring clarification.
2. A two-inch difference in elevation between traffic lanes is not a special defect under the Texas Tort Claims Act because it is not of the same kind or class as an excavation or obstruction and does not present an unusually dangerous condition to ordinary roadway users.
3. The two-inch drop-off did not support a premises-defect claim because the City lacked actual knowledge that the condition created an unreasonable risk of harm at the time of the accident.

KEY QUOTATIONS

"Because we conclude that a two-inch variance in elevation between traffic lanes is not a special defect, we reverse the court of appeals' judgment and dismiss the case." (620)

"Special defects are defects of the same kind or class as "excavations or obstructions on highways, roads, or streets,"" (622)

"Ordinary drivers, in the normal course of driving, should expect these slight variations on the road caused by normal deterioration." (622)

"Actual knowledge requires knowledge that the dangerous condition existed at the time of the accident." (623)

FACTUAL BACKGROUND

Reed was injured in a motorcycle accident while changing lanes on a Dallas roadway with a two-inch elevation variance between traffic lanes. He alleged that the unevenness constituted either a special defect or a premises defect under the Texas Tort Claims Act. A City street inspector knew of the elevation difference and reported the roadway condition to the City, but rated the street condition "C," or fair, and did not report that the condition presented a potential danger. There were no prior reported accidents or complaints concerning the drop-off.

PROCEDURAL HISTORY

Kenneth Reed sued the City of Dallas for personal-injury damages arising from a motorcycle accident allegedly caused by a two-inch elevation difference between traffic lanes. The trial court denied the City's plea to the jurisdiction. The court of appeals affirmed, holding that Reed had pleaded a cognizable cause of action and that

the condition could constitute a special defect. The Supreme Court of Texas concluded that it had jurisdiction, reversed the court of appeals, and dismissed the case.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The opinion states that the court of appeals' judgment was reversed and the case was dismissed. No remand to the lower court was ordered; the disposition is treated as reversal with dismissal.

CASES CITED

- Harris County v. Eaton, 573 S.W.2d 177, 178-80 (Tex. 1978)
- City of El Paso v. Bernal, 986 S.W.2d 610, 611 (Tex. 1999)
- Gen. Servs. Comm'n v. Little-Tex Insulation Co., 39 S.W.3d 591, 594 (Tex. 2001)
- State v. Rodriguez, 985 S.W.2d 83, 85 (Tex. 1999) (per curiam)
- State Dep't of Highways & Pub. Transp. v. Payne, 838 S.W.2d 235, 237-38 (Tex. 1992)
- State Dep't of Highways & Pub. Transp. v. Kitchen, 867 S.W.2d 784, 786 (Tex. 1993) (per curiam)
- City of Grapevine v. Roberts, 946 S.W.2d 841, 843 (Tex. 1997)
- Porter v. Grayson County, 224 S.W.3d 855, 859 (Tex. App.—Dallas 2007, no pet.)
- The Univ. of Tex.-Pan Am. v. Aguilar, 251 S.W.3d 511 (Tex. 2008) (per curiam)
- City of Corsicana v. Stewart, 249 S.W.3d 412 (Tex. 2008) (per curiam)