

# **Bond Case Briefs**

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## **IMMUNITY - OHIO**

### **Wentworth v. Coldwater**

**Court of Appeals of Ohio, Third District, Mercer County - April 13, 2015 - Slip Copy - 2015 - Ohio- 1424**

Injured driver and co-administrators of estate of passenger killed in crash caused by intoxicated driver filed claims against Village and police officer who had conducted earlier traffic stop of intoxicated driver. The Court of Common Pleas found that village and officer were not entitled to political subdivision immunity. Village and officer appealed.

The Court of Appeals held that:

- Village was entitled to immunity against claims, and
- Officer's alleged conduct was not malicious, wanton, or reckless and, thus, officer was entitled to immunity.

Village was entitled to political subdivision immunity from claims of driver who was injured, and co-administrators of estate of passenger who was killed, in crash caused by intoxicated driver, that they were injured by intentional, malicious, reckless, and/or wanton conduct of police officer, who conducted traffic stop of intoxicated driver prior to crash and allegedly failed to properly conduct any field sobriety test. Village was political subdivision, officer was employed by village, police activities were governmental functions, and no statutory exception to immunity applied.

Allegations by driver who was injured, and co-administrators of passenger who was killed, in crash caused by intoxicated driver, that police officer conducted earlier traffic stop of intoxicated driver and released him with a warning for a lane violation despite an odor of alcohol emanating from the vehicle, admission that others in vehicle had been drinking, high rate of speed, erratic driving, that it was 2:37 a.m. on a Saturday night, intoxicated driver's numerous past driving offenses, including alcohol-related offense, and intoxicated driver's admission that he was traveling from a local bar, failed to allege conduct by officer that was malicious, wanton, or reckless conduct, and, thus, officer was entitled to political subdivision immunity against claims.