

Bond Case Briefs

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Patterson v. Cowley County

Court of Appeals of Kansas - January 27, 2017 - P.3d - 2017 WL 384023

Wife and mother of motorists filed wrongful death action against county, township, and Department of Wildlife, alleging their negligence caused motorists to drive vehicle off dead-end road and drown.

Defendants filed motions for summary judgment. The District Court granted summary judgment in part to the county, and in full to the township and Department. Wife and county filed application for interlocutory appeal, which was accepted.

The Court of Appeals held that:

- County was entitled to discretionary function immunity against claims of negligence for failing to place warning signs on its portion of county road;
- County was not entitled to recreational-use immunity against motorist's claims of negligence for failing to place warning signs on its portion of county road that dead-ended at banks of river in wildlife area; and
- Township did not have a duty to place warning signs on the road, as it lacked authority to place traffic control devices on its roads.

County was entitled to discretionary function immunity against motorist's claims of negligence for failing to place an advisory speed plaque, a dead end sign, and a no outlet sign on its portion of county road. There was no standard within the Manual on Uniform Traffic Control Devices (MUTCD) that required county to follow any specific course of action related to the placement of such signs and plaques, and county's decision to place, or not place, the warning signs at issue was consistent with, and the kind of function susceptible to, public policy analysis.

County was not entitled to recreational-use immunity against motorist's claims of negligence for failing to place warning signs on its portion of county road that dead-ended at banks of river in wildlife area. Road was not essential to the use of wildlife area as a recreational area, as road apparently existed for over 100 years before wildlife area was created, and road was not the only road from which area was accessible.