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LIABILITY - VERMONT

Brown v. State

Supreme Court of Vermont - January 12, 2018 - A.3d - 2018 WL 401193 - 2018 VT 1

Motorist whose vehicle was rear-ended by off-duty police officer filed suit against State, asserting constitutional violations under § 1983 and Vermont law, and for personal injuries sustained in accident.

The Superior Court granted State's motion for partial summary judgment on constitutional claims, and then, following trial, entered judgment on jury's verdict for motorist on issue of liability, but for which jury awarded zero damages, and then denied motorist's motion for new trial. Motorist appealed.

The Supreme Court of Vermont held that:

- State was not "person" subject to suit under § 1983 for money damages for alleged equal protection and due process violations;
- Motorist was not denied common benefit due to alleged favorable treatment accorded to off-duty police officer, as required to support claim for violation of Common Benefits Clause of Vermont Constitution;
- Alleged constitutional violations, police "conspiracy," and alleged favorable treatment accorded officer, were not relevant to claim for negligence;
- Officer's failure to disclose in witness list dog in back seat of his vehicle at time of accident did not warrant new trial;
- Photographs that officer took of his truck and motorist's vehicle following rear-end collision, using his cell phone that he no longer had possession of at time of trial, were properly authenticated;
- Best evidence rule did not require exclusion of photographs;
- Trial court did not abuse its discretion in admitting officer's testimony of experiment he undertook to measure speed at which truck was rolling at time it rear-ended motorist's vehicle; and
- Motorist was not entitled to new trial based on allegedly incorrect jury instructions.

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