

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - MISSISSIPPI

Mississippi Department of Wildlife, Fisheries, and Parks v. Webb

Supreme Court of Mississippi - March 15, 2018 - So.3d - 2018 WL 1323824

Deceased boater's survivors brought wrongful death action against Department of Wildlife, Fisheries, and Parks under the Mississippi Tort Claims Act, alleging that conservation officers acted with reckless disregard for the safety of boaters on the river when they failed to effect a stop of boater who was speeding and instead instructed him to move to an allegedly safer location, after which he fled and caused a boating collision.

Following a bench trial, the Circuit Court entered judgment for survivors. Department appealed. The Court of Appeals reversed and rendered. Survivor petitioned for writ of certiorari, which was granted.

The Supreme Court of Mississippi held that there was substantial evidence that conservation officers acted in "reckless disregard" for the safety of other boaters on the river, as required to defeat immunity relating to police protection under the Act.

There was substantial evidence that conservation officers acted in "reckless disregard" for the safety of other boaters on the river when they failed to effect a stop of boater who was speeding and instead instructed him to move to an allegedly safer location, after which he fled and caused a boating collision, and thus immunity relating to police protection under the Mississippi Tort Claims Act did not preclude the wrongful death action brought by survivors of the deceased boater; although officers testified that a "blind spot" existed in the bend of the river where they had detained boater, there was evidence that their testimony was not credible, boater's blood alcohol content was .25 two hours and 15 minutes after the collision, which indicated severe impairment of all mental, physical, and sensory function, and there was evidence that officers, in violation of standard operating procedure, decided to direct boater to continue to operate his boat before determining why he was speeding or whether the use of alcohol could be ruled out.