

Bond Case Briefs

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Patterson v. Cowley County

Supreme Court of Kansas - March 16, 2018 - P.3d - 2018 WL 1354224

Family members of driver and passenger brought wrongful death action against township, county, and Kansas Department of Wildlife, Parks, and Tourism (KDWP), alleging failure to provide adequate warnings, signs, or barriers between end of road and river.

The District Court granted summary judgment in part to county, and in full to township. One family member and county took interlocutory appeals, and the appeals were consolidated. The Court of Appeals affirmed in part and reversed in part. Family member's petition and county's cross-petition for review were granted.

The Supreme Court of Kansas held that:

- Township did not owe duty to install barricade and sign at end of road;
- County did not owe duty to conduct engineering study regarding traffic-control devices; and
- Kansas Tort Claims Act (KTCA) shielded county from liability for discretionary function.

Township did not owe duty to driver and passenger who died in traffic accident to install barricade and "Dead End" sign at end of unpaved road in location where vehicle drove off road and flipped into a river; township was not located within one of five counties where townships were statutorily required to install traffic-control devices, and imposing such requirement on all townships would have rendered statute listing specific counties meaningless.

County did not owe duty to driver and passenger who died in traffic accident to conduct engineering study to determine whether additional traffic-control devices were necessary for county's paved portion of roadway; even though federal Department of Transportation's Manual on Uniform Traffic Control Devices required that warning signs be based on engineering study, Manual did not obligate county to conduct engineering study on every road within its territorial borders for purposes of considering placement of warning sign.

County had discretion not to consider whether to install advisory speed plaque, a "Dead End" sign, or a "No Outlet" sign on road, and therefore Kansas Tort Claims Act (KTCA) shielded county from liability on all claims resulting from fatal traffic accident; Manual on Uniform Traffic Control Devices did not mandate the signage or trigger need to seek out professional engineering judgment, and Manual did not contain detailed guidance for deciding when the signs were necessary.