

Bond Case Briefs

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Wilcher v. Lincoln County Board of Supervisors and City of Brookhaven, Mississippi

Supreme Court of Mississippi - May 24, 2018 - So.3d - 2018 WL 2371859

Motorist brought action against county and city to recover for injuries sustained when his vehicle crashed into a large hole left in the road overnight during bridge construction.

The Circuit Court dismissed claim on grounds of discretionary-function immunity. Motorist appealed.

The Supreme Court of Mississippi held that:

- Application of discretionary-function immunity under the Mississippi Tort Claims Act (MTCA) is governed by a two-part, public-policy function test, overruling *Brantley v. City of Horn Lake*, 152 So.3d 1106, and *Boroujerdi v. City of Starkville*, 158 So.3d 1106, and
- Discretionary-function immunity did not shield city and country from liability for hole left in the road without barricades or warning to drivers.

Lack of barricades or warnings to drivers regarding the presence of a large pit or ditch left in the road overnight by construction workers during bridge construction was not the result of a policy decision, and thus discretionary-function immunity did not shield city and country from liability for negligence in action brought by motorist alleging that he sustained injuries when his vehicle crashed into the hole.