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LIABILITY - ARIZONA

Ryan v. Napier

Supreme Court of Arizona - August 23, 2018 - P.3d - 2018 WL 4016372

Suspect brought a negligence action against a sheriff and deputy for injuries arising from events that occurred when suspect was bitten by K-9 police dog after a police chase.

The Superior Court entered a judgment upon jury returned in favor of suspect. Sheriff and deputy appealed, and the Court of Appeals affirmed. The Supreme Court granted review.

The Supreme Court of Arizona held that:

- Negligent use of intentionally inflicted force is not a cognizable claim;
- Officer's internal evaluation of whether to release police dog and his decision to do so was part and parcel of his intent to inflict harmful or offensive contact on suspect and thus could not constitute negligence;
- Justification defense for law enforcement officers who use physical force is either redundant or immaterial, and therefore inapplicable, in negligence actions brought against law enforcement officers;
- Law enforcement defendant bears the burden of proving a justification defense by a preponderance of the evidence in a civil case; and
- Expert oversteps by testifying that *Graham v. Connor*, 490 U.S. 386, governs application of the justification defense in a negligence or battery action against law enforcement officers.

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