

Bond Case Briefs

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IMMUNITY - SOUTH DAKOTA

Fischer v. City of Sioux Falls

Supreme Court of South Dakota - October 3, 2018 - N.W.2d - 2018 WL 4779267 - 2018 S.D. 71

Bicyclist brought negligence action against city after allegedly sustaining serious injuries while riding his bicycle through a public park.

The Second Judicial Circuit Court granted summary judgment for city. Bicyclist appealed.

The Supreme Court of South Dakota held that city did not act with gross negligence or willful or wanton misconduct, and thus city was immune from liability for injuries.

City did not act with gross negligence or willful or wanton misconduct, and thus city was immune from liability for injuries bicyclist sustained when his bicycle became lodged in a natural drainage ditch in city park resulting in bicyclist being thrown and sustaining serious injuries, even though the record suggested that city knew its conduct posed an unreasonable risk of harm to the public, absent evidence that the ditch posed an easily perceptible danger of death or other serious physical harm, or that the probability of such danger was substantially greater than that required for ordinary negligence.

When faced with immunity to liability for ordinary negligence under statutes immunizing a municipality from liability for negligence in connection with land open to the public for recreational use, a plaintiff cannot survive summary judgment by simply alleging negligence as a cause of action.