

Bond Case Briefs

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Tarrant Regional Water District v. Johnson

Supreme Court of Texas - April 12, 2019 - S.W.3d - 2019 WL 1575591 - 62 Tex. Sup. Ct. J. 747

Parents of pregnant pedestrian, who lost her footing on dam, slipped into river, and drowned, brought suit against water district, which constructed and maintained the dam from which pedestrian fell.

District filed a plea to the jurisdiction. The 48th District Court denied district's plea to the jurisdiction. District filed interlocutory appeal. The Fort Worth Court of Appeals affirmed in part and reversed and rendered in part. District petitioned for review.

The Supreme Court held that discretionary function exception to Tort Claims Act was applicable, and thus, water district was entitled to immunity.

Discretionary function exception to Tort Claims Act was applicable, and thus, water district, which constructed and maintained dam, was entitled to immunity with respect to premises liability claim brought by parents of pedestrian, who lost her footing on dam, slipped into river, and drowned; dam was a public work, district's decisions relating to depth of river at base of dam were discretionary design decisions, district decided to grade riverbed below dam to at least eight feet to facilitate safety of kayakers, Water Code vested discretion in district regarding river depth, the "public work" the district was alleged to have improperly maintained was natural bed of a flowing river, district did not have legal obligation to keep this natural "public work" at constant depth beneath opaque and running body of water, district did not set out to design dam that would be safe for people to walk across, and instead, it set out to design dam that would channelize river and allow kayakers to pass over it, and district's decisions as to proper allocation of taxpayer resources was kind of policy decision committed to other branches of government that discretionary function exception shielded from judicial second-guessing.