
LIABILITY - WASHINGTON

Beltran-Serrano v. City of Tacoma

Supreme Court of Washington - June 13, 2019 - 442 P.3d 608

Through a guardian ad litem, plaintiff, a homeless man who suffered from a mental illness and had limited English language proficiency, brought action against city, asserting claims for negligence and assault and battery arising from plaintiff's social encounter with a police officer that resulted in plaintiff being shot multiple times.

The Superior Court entered summary judgment for city. Plaintiff appealed.

The Supreme Court held that:

- Fact that officer's conduct may have constituted intentional tort did not preclude negligence claim, and
- Public duty doctrine did not apply to prevent city's liability in tort.

Fact that police officer's conduct in shooting plaintiff, a mentally ill homeless man, during social encounter may have constituted intentional tort of assault and battery did not preclude plaintiff's ability to bring a negligence claim against city premised on officer's failure to use ordinary care to avoid unreasonably escalating encounter to use of deadly force; officer's alleged acts of negligence, including her failure to respond appropriately to clear signs of mental illness or impairment, decision to continue to engage plaintiff in English when he appeared to have limited English language proficiency, and failure to recognize ineffectiveness of using stun gun on a mentally ill person, led up to use of force and were delineated from use of force itself, so that case was not one characterized as one involving nothing but an intentional tort.

Public duty doctrine did not apply to prevent city's liability in tort for police officer's alleged negligence in shooting plaintiff, a mentally ill homeless man with limited English-language proficiency, during social encounter; officer owed duty in tort to plaintiff based on her affirmative conduct throughout their interaction, not the performance of generalized public duty of policing.

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