

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - KANSAS

Schreiner v. Hodge

Supreme Court of Kansas - February 18, 2022 - P.3d - 2022 WL 497348

Petitioner filed pro se action against police officer and police sergeant alleging causes of action for assault, battery, false arrest, and false imprisonment after he was detained by police during an investigation concerning a suspicious vehicle.

Defendants removed case to federal court, and petitioner moved to remand. The United States District Court for the District of Kansas granted motion, and remanded to state court. The District Court granted officer and sergeant summary judgment based on discretionary function immunity under Kansas Tort Claims Act (KTCA). Petitioner appealed. The Court of Appeals affirmed. Petition for review was granted.

The Supreme Court held that:

- Officers did not have reasonable suspicion of criminal activity required to detain petitioner, and
- Officers were entitled to discretionary function immunity under the KTCA.

Police officers did not have reasonable suspicion of criminal activity required to detain petitioner, who had parked his vehicle in a residential area and entered a nearby wooded area from which he emerged three hours later, although petitioner's vehicle was parked in an area where officers were aware other crimes had taken place, and petitioner refused to reply when officer asked if he owned the vehicle; petitioner's vehicle was parked legally, officers did not have reasonable suspicion to believe that petitioner had committed, was committing, or was about to commit a crime, and his refusal to answer questions and attempt to leave could not be basis of such suspicion.

Although police officers did not have reasonable suspicion of criminal activity required to detain petitioner, who had parked his vehicle in a residential area and refused to answer officer's questions when he emerged three hours later, they were entitled to discretionary function immunity under the Kansas Tort Claims Act (KTCA) from petitioner's tort claims; their investigation of petitioner, along with their reasonable suspicion determination, were discretionary functions implicating matters of policy.