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Estate of Graham v. Lambert

Supreme Court of North Carolina - March 22, 2024 - S.E.2d - 2024 WL 1223374

Estate of pedestrian struck and killed by police cruiser filed complaint against officer driving cruiser, in his individual and official capacity, city, and police department, alleging claims of negligence, gross negligence, and wrongful death.

The Superior Court granted summary judgment in favor of police department, but denied summary judgment as to officer and city. Officer and city appealed. The Court of Appeals reversed. Estate filed an appeal, and city and officer filed a petition for discretionary review.

The Supreme Court of North Carolina held that:

- Court of Appeals, when reviewing trial court order granting police department summary judgment and denying officer and city summary judgment, should have asked whether evidence raised a genuine issue of material fact as to whether city had waived governmental immunity by purchasing insurance, and thus vacation of orders, and remand for proper analysis was warranted, and
- Statute, which exempted police officers from speed limits when chasing or apprehending criminal absconders, did not waive city's governmental immunity.