
TORT CLAIMS ACT - MISSISSIPPI

City of Jackson v. Lewis

Court of Appeals of Mississippi - May 28, 2013 - So.3d - 2013 WL 2303391

Motorists brought personal injury action against police officer and city arising from incident in which a driver, who had stolen vehicle, ran a red light and crashed into motorists' vehicle after officer began, but did not finish, pursuing him for a traffic infraction.

The court of appeals held that officer did not act in reckless disregard for the safety of the public, as would preclude governmental immunity under the Mississippi Tort Claims Act (MTCA).

Factors for determining whether a police officer acted with reckless disregard for the safety of the public during a pursuit, as would preclude governmental immunity under the MTCA are: (1) the length of the pursuit, (2) the type of neighborhood in which the pursuit took place, (3) the characteristics of the streets on which the pursuit took place, (4) the presence of vehicular or pedestrian traffic, (5) the weather conditions and visibility, (6) the seriousness of the offense for which police are pursuing the suspect, (7) whether the officer proceeded with sirens and lights, (8) whether the officer had available alternatives that would lead to the apprehension of the suspect besides pursuit, (9) the existence of a police policy that prohibits pursuit under certain circumstances, and (10) the officer's rate of speed in comparison to the posted speed limit.

Reckless disregard for the safety of the public occurs during a police pursuit, as would preclude governmental immunity under MTCA, when the conduct involved evinced not only some appreciation of the unreasonable risk involved, but also a deliberate disregard of that risk and the high probability of harm involved.

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