

Bond Case Briefs

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GOVERNMENTAL IMMUNITY - CONNECTICUT

Chirieleison v. Lucas

Appellate Court of Connecticut - July 30, 2013 - A.3d - 144 Conn.App. 430

Following fatal accident on interstate in which vehicle crossed through line of warning flares and collided with fire truck, administratrix of deceased vehicle passenger's estate brought wrongful death action against fire truck driver and town, alleging negligence against both defendants and nuisance against town.

The Appellate Court held that:

- Negligence claim against town was moot on appeal;
- Fire truck driver's actions were discretionary in nature;
- Deceased passenger did not fall within identifiable person in imminent harm exception to qualified governmental immunity; and
- Plaintiff failed to establish a prima facie case of nuisance against town.

To prevail on the identifiable person in imminent harm exception to the doctrine of qualified governmental immunity, the plaintiff must demonstrate that she was an identifiable person and was subject to imminent harm and that a public officer's conduct subjected her to that harm, despite the apparent likelihood of harm to her.

The identifiable person in imminent harm exception to the doctrine of qualified governmental immunity requires three things: (1) an imminent harm, (2) an identifiable victim, and (3) a public official to whom it is apparent that his or her conduct is likely to subject that victim to that harm. The failure to establish any one of the three prongs precludes the application of the identifiable person subject to imminent harm exception. the class of foreseeable victims to which passenger belonged, consisting of people in automobiles on the interstate, was not narrowly defined because any member of the public could have chosen to travel the interstate at the time the accident occurred, and passenger was not compelled by any municipal or state mandate to be in an automobile on the interstate at that time.

In this case, the class of foreseeable victims to which passenger belonged, consisting of people in automobiles on the interstate, was not narrowly defined because any member of the public could have chosen to travel the interstate at the time the accident occurred, and passenger was not compelled by any municipal or state mandate to be in an automobile on the interstate at that time.