
IMMUNITY - ILLINOIS

Suchy v. City of Geneva

Appellate Court of Illinois, Second District - March 28, 2014 - N.E.3d - 2014 IL App (2d) 130367

Independent administrator of decedent's estate brought personal injury and wrongful death action against city, park district, and county arising from decedent's death from injuries sustained when he jumped into river downstream from dam to save child. City, park district, and county moved to dismiss. The Circuit Court granted motions. Independent administrator appealed.

The Appellate Court held that the city, park district, and county did not owe decedent duty to warn of or protect against open and obvious risks presented by river and dam.

City, park district, and county did not owe duty to bystander who died after he jumped into river downstream from dam to save child. The water and dam were open and obvious conditions, making the likelihood of injury low, it was not foreseeable that a person in bystander's position would conclude that advantages of jumping into water to save child's life would outweigh risk of drowning himself or sustaining injuries that subsequently took his life, and installation of fences and other measures, in addition to existing warning signs, would impose significant burden.

Deliberate encounter exception to the open-and-obvious doctrine, providing that harm may be foreseeable when landowner has reason to expect that invitee would proceed to encounter the obvious danger because doing so would outweigh the apparent risk, did not apply to analysis of whether city, park district, and county owed duty to bystander who died after he jumped into river downstream from dam to save child. The exception required the presence of compulsion or impetus, and there was no legal or economic compulsion to rescue.

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