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LIABILITY - SOUTH DAKOTA

Gabriel v. Bauman

Supreme Court of South Dakota - May 21, 2014 - N.W.2d - 2014 S.D. 30

Driver sued volunteer firefighter and rural fire protection district after driver was injured when his vehicle was struck by firefighter's personal truck as firefighter was speeding to a fire station to respond to a fire, asserting that firefighter's conduct was willful, wanton, or reckless and that fire district was negligent and was vicariously liable for firefighter's negligence. The Circuit Court granted summary judgment to firefighter and fire district. Driver appealed.

The Supreme Court of South Dakota of held that:

- Firefighter did not act willfully, wantonly, or recklessly, and thus firefighter did not lose immunity from liability for emergency care under the Good Samaritan statute, and
- The Good Samaritan statute does not protect the acts of a fire department or fire district.

Volunteer firefighter whose personal truck collided with a vehicle that turned in front of the truck as he drove in excess of the speed limit to a fire station to respond to a fire did not act willfully, wantonly, or recklessly, and thus firefighter did not lose immunity from liability for emergency care under the Good Samaritan statute, absent evidence that firefighter consciously realized, before it was too late to avoid the collision, that vehicle's driver would in all probability turn in front of him.

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