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Marshall v. McIntosh County

Court of Appeals of Georgia - May 30, 2014 - S.E.2d - 2014 WL 2219709

Wife of 911 caller brought wrongful death action against county and the director of its 911 emergency telephone system, alleging that director refused to send medical assistance after caller reported that he was having a heart attack. The trial court dismissed action on grounds of sovereign and official immunity. Wife appealed.

The Court of Appeals held that:

- Statute providing that no local government of the state would be liable for death or injury as result of carrying out duties involved in operating emergency 911 system, except in cases of wanton and willful misconduct or bad faith, did not waive sovereign immunity as to claims against county and against director in her official capacity;
- Whether director's were discretionary or ministerial was factual issue that could not be decided on director's motion, predicated on qualified immunity, to dismiss claim asserted against her in her individual capacity; and
- Complaint sufficiently alleged wanton and willful misconduct and bad faith on part of director to survive motion, predicated on qualified immunity, to dismiss claim against director in her individual capacity.

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