

Bond Case Briefs

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LIABILITY - MARYLAND

Espina v. Jackson

Court of Appeals of Maryland - March 30, 2015 - A.3d - 2015 WL 1412658

Estate and family of shooting victim filed survival and wrongful death actions against police officer and county, stemming from incident in which victim was fatally shot by officer, and claim on behalf of victim's son for a violation of his constitutional rights arising out of his treatment and arrest following shooting.

Following jury trial, the Circuit Court entered judgment in favor of family and estate after reducing verdict against county from \$11,505,000 to \$405,000, but leaving verdict against officer in place. All parties appealed. The Court of Special Appeals affirmed judgment in part and reduced award entered against county to \$400,000. Estate and family filed petition for certiorari, which was granted.

The Court of Appeals held that:

- Alleged constitutional violations constituted torts under Local Government Tort Claims Act (LGTCa);
- As a matter of first impression, LGTCa damages cap did not violate constitutional provision governing relief for injury to person or property;
- Wrongful death claims were derivative of survivorship claims, such that claims were properly aggregated; and
- Claim asserted by son was not derivative of wrongful death and survivorship claims.

Alleged constitutional violations of due process clause asserted by estate and family of shooting victim constituted torts under Local Government Tort Claims Act (LGTCa), such that damages cap under LGTCa was applicable to survivorship and wrongful death action filed by estate and family against police officer and county, stemming from incident in which victim was fatally shot by officer. There was no exception in LGTCa for any category of torts, and including estate's claims within scope of LGTCa damages cap was consistent with legislature's goal of limiting civil liability of local governments.

Damages cap under Local Government Tort Claims Act (LGTCa) was reasonable, and therefore application of cap to constitutional tort claims filed by shooting victim's estate and family in survivorship and wrongful death action against police officer and county, arising from incident in which officer fatally shot victim, did not violate constitutional provision protecting rights to a remedy for injury to one's person or property and to access to the courts. Neither estate's cause of action nor right to bring case in the courts was affected by LGTCa, and cap was not so unduly low so as to equate with cutting off all remedy.