

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - NEW HAMPSHIRE

Maryea v. Velardi

Supreme Court of New Hampshire - March 8, 2016 - A.3d - 2016 WL 873811

County house of corrections inmate filed suit against county for injuries she sustained when van that she was riding in while being transported to courthouse collided with another vehicle. The Superior Court granted county's motion for summary judgment on grounds of immunity, and inmate appealed.

The Supreme Court of New Hampshire held that:

- Statutory exception to immunity for actions to recover for bodily injury, personal injury, or property damage arising out of ownership, occupation, maintenance or operation of motor vehicle did not abrogate common law "discretionary function" immunity, and
- County was entitled to "discretionary function" immunity from liability for inmate's injuries.

Statute providing that governmental unit may be liable in action to recover for bodily injury, personal injury, or property damage arising out of ownership, occupation, maintenance or operation of motor vehicle did not abrogate county's common law "discretionary function" immunity from liability for injuries sustained by county house of corrections inmate when van she was riding in while being transported to courthouse collided with another vehicle, which claim arose out of county sheriff's decision not to install seat belts in portion of van designated for inmates.

County sheriff's decision not to install seat belts in portion of transport van designated for inmates was discretionary, not ministerial function, and thus, county was entitled to "discretionary function" immunity from liability for injuries sustained by House of Corrections inmate when van she was riding in while being transported to courthouse collided with another vehicle. Sheriff considered installing seatbelts, but decided that danger to officers and public outweighed increased safety that the seatbelts would provide for inmates, in that installation of seatbelts would require corrections officers to enter van with inmates in order to strap them in, which would make it easier for inmates to overwhelm officers, access their firearms, and escape.