

Bond Case Briefs

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St. Vrain Valley School District RE-1J v. Loveland by and through Loveland

Supreme Court of Colorado - May 22, 2017 - P.3d - 2017 WL 2224368 - 2017 CO 54

Student, who was injured in fall while using zip line apparatus on public school playground, and her parents filed personal injury action against school district.

The District Court dismissed claims as being barred by Colorado Governmental Immunity Act (CGIA). Student and parents appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. On certiorari review, the Supreme Court affirmed and remanded. On remand, the trial court granted district's motion to dismiss. Students and parents appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. Student and parents sought certiorari review, which was granted.

The Supreme Court of Colorado held that:

- Plaintiffs failed to demonstrate defect in condition of apparatus, and thus apparatus was not dangerous condition warranting waiver of school district's sovereign immunity, abrogating *Longbottom v. State Board of Community Colleges & Occupational Education*, 872 P.2d 1253, and *Hendricks ex rel. Martens v. Weld County School District No. 6*, 895 P.2d 1120, and
- School district's alleged negligence in constructing inherently dangerous apparatus claim of negligent design of playground that did not constitute dangerous condition warranting waiver of immunity.

A non-negligently constructed and maintained piece of playground equipment cannot be a "dangerous condition" under the Colorado Governmental Immunity Act (CGIA) recreation-area waiver, depriving a public entity of immunity in actions for injuries from a dangerous condition of a public facility located in a recreation area.

Student, who was injured in fall from zip line apparatus on public school playground, and her parents failed to demonstrate that there was a physical defect in the construction or maintenance of the apparatus, and thus student and parents failed to establish that zip line was "dangerous condition" warranting waiver of school district's sovereign immunity under recreation-area exception of Colorado Governmental Immunity Act (CGIA) depriving a public entity of immunity in actions for injuries from a dangerous condition of a public facility located in a recreation area.

For waiver of immunity under Colorado Governmental Immunity Act (CGIA) for injuries resulting from a dangerous condition, the physical condition of the public facility or use thereof must be a physical defect caused by some negligent act or omission of the public entity in constructing or maintaining the facility; abrogating *Longbottom v. State Board of Community Colleges & Occupational Education*, 872 P.2d 1253, and *Hendricks ex rel. Martens v. Weld County School District No. 6*, 895 P.2d 1120.

School district's alleged negligence in constructing inherently dangerous zip line apparatus on

school playground was not dangerous condition for which immunity was waived under Colorado Governmental Immunity Act (CGIA) recreation-area waiver, in negligence action by student and parents following student's fall from apparatus, but rather constituted claim about negligent design of playground precluded under CGIA provision stating that dangerous condition would not exist solely because design of any facility was inadequate.