

Bond Case Briefs

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POLITICAL SUBDIVISIONS - TEXAS

University of Incarnate Word v. Redus

Court of Appeals of Texas, San Antonio - March 7, 2018 - S.W.3d - 2018 WL 1176652

Parents of deceased student brought wrongful death and survival action against private university and university police officer arising out of the officer's use of deadly force following a traffic stop, alleging claims of negligence and gross negligence.

University filed plea to the jurisdiction and motion to dismiss suit against officer. The District Court denied plea to the jurisdiction and motion to dismiss. University filed interlocutory appeal. The Court of Appeals dismissed appeal for lack of jurisdiction. University filed a petition for review, which was granted. The Supreme Court reversed order dismissing appeal for lack of jurisdiction and remanded for determination of merits of plea to the jurisdiction.

The Court of Appeals held that university's police department was not a governmental unit eligible for governmental immunity from suit under common law doctrine of sovereign immunity.

Private university's state-authorized police department was not a governmental unit eligible for governmental immunity from suit under common law doctrine of sovereign immunity, and thus university was not immune from liability in wrongful death and survival action filed by parents of student who was fatally shot by university police officer following traffic stop; although university's police department was engaging in governmental function of law enforcement, there was no risk of disrupting previously allocated taxpayer funds or government services, even if university decided to dissolve its police department as a result of not being granted immunity for actions of department and if local law enforcement required additional officers to perform its duties.