

# **Bond Case Briefs**

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## **IMMUNITY - ARKANSAS**

### **Dayong Yang v. City of Little Rock**

**Supreme Court of Arkansas - May 30, 2019 - S.W.3d - 2019 Ark. 169 - 2019 WL 2295048**

Father, as administrator of child's estate, brought city, its employees, and its ambulance authority, alleging negligence and civil rights violations under § 1983, the Fourteenth Amendment to the United States Constitution, and Arkansas law, arising from the alleged mishandling of an emergency services call seeking rescue services for his son.

The Circuit Court denied city's and employees' motions for summary judgment. City and employees brought interlocutory appeal. The Supreme Court reversed and remanded. On remand, the circuit court granted summary judgment to city and employees and dismissed with prejudice. Father appealed.

The Supreme Court held that:

- City was entitled to municipal immunity from negligence claims;
- City did not have § 1983 liability for claims that it violated son's substantive and procedural due process rights; and
- § 1983 claims did not fall under state-created-danger exception to rule that government has no duty to render aid to those not in its custody.

City established that it did not have general liability insurance coverage to cover father's negligence claims regarding alleged mishandling of an emergency services call seeking rescue for his services for his son following an accident, which resulted in son's death, and thus, city was entitled to municipal immunity from negligence claims.

City did not have § 1983 liability for father's claims that city violated his son's substantive and procedural due process rights by failing to provide competent emergency services to son, since no constitutional violation had occurred at time of city's rescue efforts, as city had no constitutional duty to provide rescue services for the son.

Father's § 1983 claims that city's water-rescue-operations policy prevented any rescue attempts by others and deprived his son of his life and liberty interests in violation of the Fourteenth Amendment did not fall under state-created-danger exception to rule that government has no duty to render aid to those not in its custody, where father presented no evidence that a rescue attempt by any person, whether official or citizen, was arbitrarily prevented by city or that during its rescue efforts, city affirmatively placed son in position of danger that he would not otherwise have faced.