

Bond Case Briefs

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IMMUNITY - TEXAS

University of Texas v. Garner

Supreme Court of Texas - October 18, 2019 - S.W.3d - 2019 WL 5275579 - 63 Tex. Sup. Ct. J. 41

Bicyclist sued state university for negligence after she was injured by university employee while bicycling on university-owned property.

The District Court denied university's plea to the jurisdiction, and university appealed. The Court of Appeals affirmed, and appeal was taken.

The Supreme Court held that:

- University owed bicyclist only the duty not to injure her intentionally or through gross negligence pursuant to recreational use statute, and
- Recreational use statute applied to bicyclist's negligence claim, and because bicyclist did not assert claims premised on conduct involving malicious intent, bad faith, or gross negligence, the Tort Claims Act did not waive university's immunity from suit.

State university owed bicyclist, who was injured by university employee while bicycling on university-owned property, only the duty not to injure her intentionally or through gross negligence pursuant to section of recreational use statute, providing that, if person enters premises owned by governmental unit and engages in recreation on those premises, governmental unit does not owe to the person a greater degree of care than is owed to trespasser; bicyclist entered premises owned by governmental unit and engaged in activity on those premises, namely bicycling, which qualified as recreation under the statute.

Although bicyclist argued that she was bicycling on state university-owned property for transportation, rather than recreational purposes, when she was struck by vehicle driven by university employee, her subjective intent did not control when determining if bicyclist's activity was recreational for purposes of recreational use statute.

Recreational use statute applied to bicyclist's negligence claim against state university, after she was injured by university employee while bicycling on university-owned property, and because bicyclist did not assert claims premised on conduct involving malicious intent, bad faith, or gross negligence, the Tort Claims Act did not waive university's immunity from suit.