

Bond Case Briefs

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McDonald v. City of Portland

Supreme Judicial Court of Maine - October 13, 2020 - A.3d - 2020 WL 6039159 - 2020 ME 119

Pedestrian who slipped and fell on plaza immediately outside police department headquarters brought personal injury action against city for its alleged negligence in maintaining the area.

The Superior Court denied city's motion for summary judgment on immunity grounds, and city appealed.

The Supreme Judicial Court held that:

- Plaza immediately outside police department headquarters where pedestrian slipped and fell on ice was an "appurtenance" to public building, under the "public building" exception to the Maine Tort Claims Act (MTCA), and
- City's failure to treat icy conditions of a plaza appurtenant to public building could be considered a "negligent act[] or omission," in the "maintenance" of the plaza, such as would subject city to liability for fall.

Plaza immediately outside police department headquarters where pedestrian slipped and fell on ice was an "appurtenance" to public building, and not an excluded sidewalk or parking lot, the negligent maintenance of which by municipality could subject it to liability under the "public building" exception to the Maine Tort Claims Act (MTCA); it did not matter that municipality allowed staff to park bicycles and motorcycles in limited area of the plaza, since to hold that government entity could defeat the "public building" exception to immunity by simply allowing staff to park motorcycles or bicycles on what would otherwise be an appurtenance would be absurd or illogical.

City's failure to treat icy conditions of a plaza appurtenant to public building could be considered a "negligent act[] or omission," in the "maintenance" of the plaza, such as would subject city to liability for fall that occurred as result of such negligence under the "public building" exception to the Maine Tort Claims Act (MTCA).