

Bond Case Briefs

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Slavin v. American Medical Response of Massachusetts, Inc.

Appeals Court of Massachusetts, Bristol - January 11, 2021 - N.E.3d - 99 Mass.App.Ct. 55 - 2021 WL 80668

911 Caller, individually and as personal representative of the estate of her deceased mother, brought action against city for wrongful death and emotional distress, alleging that city employees negligently delayed in responding to 911 call reporting that caller and her mother had been stabbed by an intruder.

The Superior Court Department denied city's motion to dismiss. City appealed.

The Appeals Court held that:

- Absent negligent medical treatment, caller's claims were barred by provision of the Massachusetts Tort Claim barring claims against public employers based on tortious conduct of third parties not originally caused by the public employer, and
- Negligent medical treatment exception to provision barring liability did not apply.

Absent negligent medical treatment, claims by 911 caller against city, alleging that city employees negligently delayed in responding to 911 call reporting that caller and her mother had been stabbed by an intruder, were barred by provision of the Massachusetts Tort Claims Act barring claims against public employers based on tortious conduct of third parties not originally caused by the public employer; even though a more prompt response by city personnel might have diminished the harmful consequences of the stabbings, the lack of a prompt response was not the original cause of the harm, as the harm was originally caused by the violent and tortious conduct of a third person, the perpetrator of the stabbings, and not by the public employer or anyone acting on its behalf.

Negligent medical treatment exception to Tort Claims Act provision barring claims against public employers based on tortious conduct of third parties not originally caused by the public employer did not apply to claim brought by 911 caller, alleging city employees negligently delayed in responding to 911 call reporting that caller and her mother had been stabbed; caller did not allege that once the public employees responded to the scene, medical treatment that was furnished was provided in a negligent manner, nor did she allege that they were negligent in not providing additional or different treatment, and "negligent medical treatment" could not be stretched to encompass nonmedical acts or omissions by public employees before arriving at location where they could provide treatment.