

Bond Case Briefs

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NEGLIGENCE - UTAH

Feldman v. Salt Lake City Corporation

Supreme Court of Utah - January 28, 2021 - P.3d - 2021 WL 279709 - 2021 UT 4

Husband and children of victim who drowned in city park brought action against the city, alleging claims for negligence, premises liability, negligent infliction of emotional distress, vicarious liability, and wrongful death.

Third District Court granted city's motion to dismiss. Plaintiffs appealed.

The Supreme Court held that:

- Statute that barred claims for personal injury against landowners where the injured party was participating in an activity with a recreational purpose on the land applied to wrongful death action;
- Application of statute to plaintiffs' wrongful death action did not violate the Wrongful Death Clause of the Utah Constitution;
- Victim was participating in an activity with a recreational purpose on the land for purposes of the Limitation of Landowner Liability Act;
- In a matter of first impression, for purposes of the Limitation of Landowner Liability Act, a risk is an "integral and natural part" of a given activity if that risk would be expected in the given setting; and
- Plaintiffs sufficiently alleged that her drowning was not caused by a risk inherent in her recreational activity, and thus, that their wrongful death action was not barred by the Limitations on Landowner Liability Act.