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Daley v. Kashmanian

Supreme Court of Connecticut - August 30, 2022280 A.3d - 344 Conn. 464 - 2022 WL 3692856

Motorcyclist brought action against police officer and city, alleging that officer had negligently and recklessly caused motorcyclist to be ejected from his motorcycle.

Following close of evidence at jury trial, the Superior Court granted officer's motion for directed verdict as to recklessness charge, and subsequently, following jury verdict in motorcyclist's favor on negligence charge, granted officer's and city's motions to set aside the jury verdict. Motorcyclist appealed. The Appellate Court affirmed in part, reversed in part, and remanded. Motorcyclist filed petition for certification.

The Supreme Court held that:

- Operation of a motor vehicle is a "ministerial act" for which a municipal employee lacks qualified immunity;
- Officer's operation of unmarked police car was not itself a discretionary activity, but officer's decision to use unmarked police car to surveil motorcyclist was discretionary for purposes of governmental immunity; and
- Officer and city were not entitled to discretionary act immunity for officer's negligent operation of the police car.

Operation of a motor vehicle is a "ministerial act" for which a municipal employee lacks qualified immunity; terms of the relevant motor vehicle laws establish a ministerial duty, insofar as they contain mandatory statutory language that itself limits discretion in the performance of the mandatory act.

City police officer's operation of unmarked police car was not itself a discretionary activity during the surveillance operation that led to the collision that injured motorcyclist since operation of a motor vehicle was a highly regulated activity that constituted a ministerial function, but officer's decision to use unmarked police car to surveil motorcyclist was discretionary one for purposes of governmental immunity.

City police officer's operation of unmarked police car, including following the statutory rules of the road, was a ministerial function, and thus, officer and city were not entitled to discretionary act immunity for officer's negligent operation of the police car, while surveilling motorcyclist, which resulted in motorcyclist's being ejected from his motorcycle; motor vehicle statutes providing the rules of the road imposed numerous ministerial duties that officer violated in his operation of unmarked police car.

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