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LIABILITY - NEW YORK

Maldovan v. County of Erie

Court of Appeals of New York - November 22, 2022 - N.E.3d - 2022 WL 17095561 - 2022 N.Y. Slip Op. 06632

Public administrator of estate of woman with developmental disabilities, who was sexually assaulted, abused, and murdered by her brother and mother, with whom she had lived, brought actions against county and sheriff, alleging that caseworkers for county's child and adult protective services agencies, who had investigated reports the woman was being abused, as well as sheriff's deputies, were negligent in the performance of their duties, leading to the woman's death.

The Supreme Court, Erie County, denied the parties' motions for summary judgment, and they appealed. The Supreme Court, Appellate Division, reversed the order denying defendants' motion and granted summary judgment to defendants. Leave to appeal was granted.

The Court of Appeals held that:

- County did not voluntarily assume a duty beyond what was owed to the public generally;
- Sheriff's deputies took no action that could have induced reliance by the woman's other family members; and
- Special duty rule for municipal negligence is not satisfied whenever a municipality's child or adult protective services agency receives a report of abuse, opens an investigation, and has contact with the injured party; abrogating *Boland v. State*, 218 A.D.2d 235, 638 N.Y.S.2d 500.