

Bond Case Briefs

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City of Houston v. Gilbert

Court of Appeals of Texas, Houston (14th Dist.) - November 10, 2022 - S.W.3d - 2022 WL 16842193

Relatives of two minors who suffered electrocution injuries at city-owned park when one minor made physical contact with electrical box brought action against city, sports organization minors were involved in, and other defendants, alleging negligent activity, premises liability, negligence, negligence per se, and gross negligence.

The District Court denied city's plea to the jurisdiction. City appealed.

The Court of Appeals held that:

- Claims by relatives were premises liability claims as a matter of law;
- Fact issue existed as to whether city-owned park was reserved for sports organization on particular day of incident;
- Relative of minor who made physical contact with electrical box was licensee as a matter of law;
- City did not have actual knowledge that metal cover of electrical box had become energized prior to injuries;
- City did not have actual, subjective awareness that electrical box had become energized and chose to do nothing; and
- Fact issue existed as to trial court's jurisdiction over minor child's premises defect claim against city.

City did not have actual, subjective awareness that electrical box with metal cover had become energized and chose to do nothing and, thus, city was entitled to immunity-based plea to the jurisdiction in premises liability action brought by step-grandfather of minor child who was injured when she made physical contact with electrical box at city-owned softball field; city was not aware that metal cover had, against all probability, become energized, city was not working with electrical box at or near time of incident, city had no records of working on box in years leading up to incident, and nothing indicated that a person had ever been electrocuted by any one of hundreds of electrical box covers at city parks at any time prior to incident.