

Bond Case Briefs

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McGuire on behalf of Neidig v. City of Pittsburgh

Supreme Court of Pennsylvania - November 23, 2022 - A.3d - 2022 WL 17170459

Judgment creditor, as assignee of judgment debtor's right, if any, to indemnification from city as a police officer, filed an action against city for declaratory judgment, alleging that city failed to comply with its alleged obligation to indemnify judgment debtor following a federal district court judgment that was entered against judgment debtor, in his individual capacity as a police officer, in favor of judgment creditor, who was an arrestee.

Following a jury trial, the Court of Common Pleas denied the parties' post-trial motions and entered judgment on the jury verdict in favor of city. Judgment creditor appealed. The Commonwealth Court affirmed. Judgment creditor petitioned for allowance of appeal, which was granted.

In matters of apparent first impression, the Supreme Court held that:

- Restatement (Second) of Agency section setting forth "scope of employment" test would be adopted to determine if public employee's conduct fell within "scope of office or duties" under indemnity provision of Political Subdivision Tort Claims Act (PSTCA), and
- Determination that officer acted "under color of state law," for purposes of § 1983, did not establish that he acted "within the scope of his office or employment," for purposes of the PSTCA.

Restatement (Second) of Agency section, providing that employee's conduct falls within the "scope of his employment," for purpose of common law vicarious liability, if it is of the kind he is employed to perform, it occurs substantially within the authorized time and space limits, it is actuated, at least in part, by a purpose to serve the employer, and if force is intentionally used by employee against another, the use of force is not unexpected by the employer, would be adopted in determining whether public employee's conduct fell within his "scope of office or duties" under indemnity provision of the Political Subdivision Tort Claims Act (PSTCA).

Determination that a police officer acted "under color of state law," for purposes of § 1983 liability, did not establish that officer acted "within the scope of his office or employment," for purposes of indemnity provision of the Political Subdivision Tort Claims Act (PSTCA); the two phrases involved different inquiries and were not synonymous, as officer could act under color of state law without necessarily acting within the scope of his employment.