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City of Roswell v. Hernandez-Flores

Court of Appeals of Georgia - October 31, 2024 - S.E.2d - 2024 WL 4633588

Pedestrian filed negligence suit against city, seeking to recover for serious head, neck, and leg injuries sustained when pedestrian was struck on the sidewalk by a fleeing suspect's vehicle after suspect swerved to avoid tire-deflating spikes deployed by a city police officer.

The State Court denied city's motion for summary judgment based on sovereign immunity. City applied for interlocutory review, which was granted. The Court of Appeals reversed. On certiorari, the Supreme Court remanded for reconsideration in light of intervening precedent.

On remand, the Court of Appeals held that:

- Officer's conduct of driving in patrol car to an intersection where high-speed chase being conducted by others was headed, along with officer's storing of tire-deflating spikes in patrol car trunk and standing behind patrol car as officer deployed the spikes at such intersection, constituted the "use" of patrol car, as could support finding that city's sovereign immunity was waived as to such use pursuant to statute waiving sovereign immunity for losses arising out of claims for the negligent use of a covered motor vehicle; but
- Pedestrian's injuries did not "arise out of" officer's allegedly negligent use of patrol car in following chase on radio and driving to intersection where chase was headed;
- Pedestrian's injuries did not "arise out of" officer's allegedly negligent use of patrol car in storing tire-deflating spikes in patrol car trunk; and
- Pedestrian's injuries did not "arise out of" officer's allegedly negligent use of patrol car through his conduct of standing behind parked patrol car when deploying tire-deflating spikes.

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