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Monongalia County Commission v. Stewart

Supreme Court of Appeals of West Virginia - November 14, 2024 - S.E.2d - 2024 WL 4784676

Daughter of man shot by deputy sheriff when responding to domestic dispute call brought action against deputy and county commission, alleging excessive force/wrongful death, negligence/wrongful death, and vicarious liability. Deputy and county commission filed motion to dismiss for failure to state a claim on immunity grounds.

The Circuit Court granted the motion in part. Deputy and county commission appealed, and daughter cross-appealed.

The Supreme Court of Appeals held that:

- County commission was not immune from liability to the extent that deputy sheriff was acting within the scope of his employment and in furtherance of a method of providing law enforcement protection;
- County commission had political immunity from claim it was directly liable on grounds that commission had the authority to formulate, implement, and administer the policies, customs, and practices of sheriff's department;
- Allegations against deputy sheriff were sufficient to communicate claim that deputy's acts were with malicious purpose, in bad faith, or in a wanton or reckless manner so as to deprive him of statutory immunity;
- County commission and deputy sheriff lacked qualified immunity;
- Governmental Tort Claims and Insurance Reform Act governs the liability of political subdivisions and their employees in a civil action for damages claiming death, injury, or loss to persons or property, as well as the immunities from those civil actions available to political subdivisions and their employees, and an insurance policy may not alter liabilities or immunities established by the Tort Claims Act, overruling *Bender v. Glendenning,* 219 W. Va. 174, 632 S.E.2d 330; and
- Daughter only sued deputy in his official capacity, and thus could not recover punitive damages.

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