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City of Killeen–Killeen Police Department v. Terry

Supreme Court of Texas - April 25, 2025 - S.W.3d - 2025 WL 1196743

Vehicle owner brought action against city police department after police cruiser responding to 911 call struck his vehicle.

The 146th District Court denied department's plea to jurisdiction. Department appealed. The Austin Court of Appeals affirmed. Department petitioned for review.

The Supreme Court held that remand was necessary for further consideration of whether emergency exception to Tort Claims Act's waiver of governmental immunity applied to department.

Remand to Court of Appeals was necessary for further consideration of whether emergency exception to Tort Claims Act's waiver of governmental immunity applied to city police department in action brought against department by vehicle owner after police cruiser responding to 911 call struck his vehicle; in affirming denial of department's plea to jurisdiction, Court of Appeals applied categorical rule that governmental entity was immune from suits to recover damages resulting from emergency operation of emergency vehicle unless operator acted recklessly, but subsequent Supreme Court decision in Powell, 704 S.W.3d 437, held that court was to resolve officer's compliance with laws and ordinances applicable to emergency action before conducting any recklessness inquiry.

The emergency exception to the Tort Claims Act's waiver of governmental immunity contemplates two distinct inquiries to be undertaken in a particular order: first, the court must assess whether any laws or ordinances apply to the emergency action at issue in the case; if a law or ordinance applies to the emergency action or to some aspect of it, then the jurisdictional inquiry turns on whether the officer's action complied with the relevant law or ordinance, and only if no law or ordinance applies may the court move to the second inquiry—whether there is a fact issue as to that officer's recklessness in undertaking the action that led to the injury.

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