Administrative Office of the Courts

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The state can be sued over the erroneous release of a prisoner, the Supreme Court rules

SANTA FE – The state Supreme Court ruled today that New Mexico law allows governmental agencies to be sued by individuals harmed by an inmate mistakenly released from prison because of the negligence of public employees.

In a unanimous opinion, the Court concluded that the New Mexico Tort Claims Act permits a lawsuit against the state Department of Corrections by the estate of Katherine Paquin, an Albuquerque woman killed in 2012 by Christopher Blattner after he was mistakenly released from prison three years early. He was serving a sentence for convictions of trafficking and possession of drugs.

The Tort Claims Act protects state and local public entities from claims for damages except for negligence in certain governmental functions in which the law waives that sovereign immunity. The Court determined that Paquin's lawsuit was permitted under a provision commonly referred to as the "building waiver." That provision lifts immunity for claims for damages caused by the negligence of public employees in their duties "in the operation or maintenance of any building, public park, machinery, equipment or furnishings."

In an opinion by Justice C. Shannon Bacon, the Court affirmed a decision of the state Court of Appeals, "concluding the building waiver contains no geographical limitation. Further, we hold that the negligent release of prisoners, if sufficiently pleaded, may constitute operation of a building within the meaning of the building waiver."

The Court ordered the lawsuit by Paquin's estate back to the district court in Bernalillo County for further proceedings. The trial court had granted summary judgment in favor of the Department of Corrections, ruling that the building waiver did not extend to injuries that occur off the premises of a prison.

In reaching its decision, the Court analyzed the wording of the Tort Claims Act and previous appellate court decisions on the law. The justices determined there was no "geographical limitation in either the building waiver's plain language, legislative intent, or indeed our case law."

The Court's opinion maps out a legal framework for judges to use in analyzing lawsuits involving the building waiver of the Tort Claims Act, an approach that "facilitates the waiver's

purpose to expose the government to liability for the performance of certain governmental functions."

The justice explained that lower courts should focus on the factual situation alleged in a civil lawsuit to determine the legal obligation of governmental employees in operating public buildings. Then "courts should query whether the complaint alleges either or a combination of both 'operational failure to respond to or discover conditions [that] pose a danger to a class of persons involved" and "failure to create and/or implement reasonably appropriate safety policies and operational procedures,''' the Court wrote.

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To read the decision in *Sanders v. NM Corrections Department*, No. S-1-SC-39690, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/530736/index.do