

*Devonte Daley v. Zachary Kashmanian Et Al. (AC 41393)*

The plaintiff in this case sought damages for injuries sustained as a result of the defendant's reckless driving. The plaintiff sustained his injuries when the defendant, a police officer, struck him while the defendant was driving an unmarked police car and the plaintiff was driving a motorcycle. The defendant was attempting to surveil the plaintiff. Upon being struck by the defendant, the plaintiff was thrown from his motorcycle. The plaintiff contends that the defendant was acting recklessly and negligently while surveilling him by driving a police car with no lights or sirens, traveling at a significantly higher speed than the limit in that area, and traveling in the wrong lane of traffic. In doing so, the plaintiff argued that the defendant "violated a ministerial duty imposed on him by certain motor vehicle statutes." The defendant filed a motion for a directed verdict in regard to the plaintiff's recklessness claim which the trial court granted. In regard to the negligence claim, the jury decided in favor of the defendant. The trial court set aside the jury's verdict on the ground that "the plaintiff's allegations related to discretionary acts for which the defendants were immune from liability pursuant to the statute §52- 557n concerning governmental immunity." The plaintiff appealed this decision.

The issue presented to the Appellate Court in this appeal is whether the trial court erred in their determination that the plaintiff presented insufficient evidence to withstand the defendant's motion for a directed verdict. The Court determined that the lower court acted properly in granting the defendant's motion for a directed verdict concerning the negligence claim. The Court further determined that the lower court improperly granted the defendant's motion for a directed verdict concerning the recklessness claim.

In reaching these determinations, the Court first considered the plaintiff's claim that the defendant acted recklessly. The Court determined that the lower court erred in granting the

defendant's motion for a directed verdict with regard to this claim because the plaintiff provided evidence sufficient to allow a jury to reasonably conclude that the defendant acted recklessly and therefore a directed verdict was inappropriate. The Court found that a jury could have reasonably found that the defendant was aware of the risks and dangers posed by exceeding the speed limit, driving in the wrong lane of traffic, driving recklessly without lights or sirens, and following too closely behind the plaintiff. The jury also could have reasonably found that the defendant consciously disregarded the known risks and dangers which his actions posed. The Court determined that because a jury could have reasonably found that the defendant acted recklessly, the plaintiff was entitled to have his claim presented to a jury.

The Court next looked at the plaintiff's claim that the trial court improperly set aside the jury verdict rendered in regard to the plaintiff's negligence claims. The Court determined that the trial court properly granted the defendant's motion for a directed verdict concerning the plaintiff's negligence claims because at the time of the accident, the defendant was engaging in discretionary activity, rather than a ministerial act, and was therefore entitled to governmental immunity. In reaching this determination, the Court first noted that the question of whether a defendant is entitled to governmental immunity is a question of law. The Court determined that the defendant was "not merely operating his motor vehicle on the roads under ordinary conditions; instead, he was engaged in the discretionary police activity of surveilling the plaintiff . . . [and the defendant] did not have a ministerial duty to follow each and every motor vehicle statute, even if those statutes in other circumstances would impose ministerial duties." The Court found that the trial court properly set aside the verdict rendered by the jury as the defendant was protected against the negligence claim by governmental immunity.

The Court affirmed the trial court's decision in setting aside the jury's verdict concerning the plaintiff's negligence claims reversed the trial court's decision in granting the defendant's motion for a directed verdict concerning the recklessness claim. The Court remanded the case for a new trial for the claims of recklessness.