

Connecticut Supreme Court Reverses Immunity for New Haven Police Officer

By Robert Storace



Connecticut Supreme Court building in Hartford. Photo: Michael Marciano/ALM

The Connecticut Supreme Court has reversed a lower court ruling that hinged on whether a New Haven police officer had immunity after her attempt to curtail dirt bikes led to a traumatic brain injury for one of the bikers.

A Superior Court judge agreed with the city of New Haven in *Cole v. City of New Haven* that Officer Nikki Curry was entitled to governmental immunity after she pulled her cruiser directly into an oncoming traffic lane in which Amaadi Cole was traveling on his dirt bike. The officer's actions, which were intended to stop the dirt bikes, caused Cole to swerve and strike a tree.

Cole sustained a traumatic brain injury, near total blindness of his right eye and a skull fracture. He sought financial damages.

While Superior Court Judge James Abrams sided with the city and said the officer was entitled to governmental immunity, the high court said she wasn't.

The city argued and Abrams agreed that Curry's actions were discretionary and an exception to the discretionary act immunity. The plaintiffs had maintained that Curry breached a ministerial duty in conducting the roadblock maneuver. Ministerial duties are not governmental immunity exceptions.

In writing the court's 6-0 ruling Oct. 15, Chief Justice Richard Robinson said, "Having reviewed the record, we first conclude that there is a genuine issue of material fact with respect to the predicate for a ministerial duty, namely, whether a 'pursuit' occurred, thus rendering summary judgment improper in this case."

Robinson also said that deposition testimony of a police sergeant “provides evidence from which a reasonable fact finder could conclude that Curry violated numerous ministerial duties with respect to pursuits and police officer interactions with dirt bikes.”

Robinson continued: “Furthermore, a complete roadblock violated police department policy as ‘there always has to be an opening for that vehicle to be able to continue on.’”

Cole’s co-counsel attorney, Thomas McNamara, said the message in the rule reversal for attorneys is “with the right set of facts, the courthouse is now open to them. This was a fair ruling.”

“The main things about this case is that the chief justice recognized that it was a violation of New Haven’s department policy that roadblocks are not to be used except in very specific situations of which this case did not even come close,” said McNamara, a personal injury and trial attorney with McNamara & Goodman in New Haven.

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McNamara continued: “I had confidence the court would understand this messy law of governmental immunity and apply the law correctly. If they had not found that there were a number of factual issues in this case, attorneys would be hard-pressed to want to take any kind of case where injury was caused by police personnel driving a cruiser.”

Representing the city of New Haven were Susman, Duffy & Segaloff attorneys Thomas Katon, Philip Kent and Adam Miller and New Haven attorney Roderick Williams. None of the attorneys responded to a request

for comment.

Assisting McNamara was James Healy of the Law Offices of Cowdery & Murphy in Hartford. ■

Robert Storace covers legal trends, lawsuits and analysis for the Connecticut Law Tribune. Follow him on Twitter @RobertSCTLaw or reach him at 203-437-5950.

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