

**From:** John Travis  
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**Gallagher Sharp Newsflash: Police Liability in High-Speed Chases**

On Tuesday, December 27, 2016, the Supreme Court of Ohio held that police may only be liable for injuries to third parties sustained during a high-speed chase if the officer acted maliciously, in bad faith, or in a wanton or reckless manner.

In *Argabrite v. Neer*, Slip Op. No. 2016-Ohio-8374, the Supreme Court of Ohio reviewed whether the lower courts erred in granting summary judgment to several officers engaged in a high-speed chase. The case arose from a July, 2011 incident when Pamela Argabrite was injured during a police chase involving officers from the Miami Township police department and the Montgomery County Sheriff's Department. The chase ended when the suspect struck Ms. Argabrite's vehicle head-on, killing the suspect and injuring her.

The trial court granted summary judgment in favor of the officers based on *Whitfield v. Dayton*, 167 Ohio App. 3d 172, 2006-Ohio-2917 (2d Dist.), which held that "when police officers pursue a fleeing violator who injures a third party, the officers' pursuit is not the proximate cause of the injuries unless their conduct was outrageous or extreme." The Second District affirmed, applying the rule from *Whitfield*.

The high court found that the trial court and the Second Appellate District erred in applying the incorrect legal standard. The Supreme Court looked to the plain language of RC Chapter 2744, which prescribes the circumstances under which a political subdivision and its employees are liable in tort. Specifically, RC 2744.03(A)(6)(b) states that employees of the political subdivision are immune from liability unless the employees' acts or omissions were "with malicious purpose, in bad faith, or in a wanton or reckless manner." This is the standard that should be applied to determine if an officer has liability in tort, and not the "outrageous or extreme" standard articulated by *Whitfield*.

However, the Supreme Court affirmed summary judgment for the officers reasoning that, as a matter of law, they did not act with malicious purpose, in bad faith, or in a wanton and reckless manner. Justice French, writing for the majority, noted that "no other public employee faces the potential danger, violence or unique statutory responsibilities a law-enforcement officer faces."

Chief Justice O'Connor, Justice O'Donnell, and Justice Lanzinger (with an opinion) joined in the majority opinion. Justice Kennedy concurred in judgment only and Justices Pfeifer and O'Neill concurred in part and dissented in part; each of these justices wrote separate opinions.

A copy of the decision can be found at <https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2016/2016-Ohio-8374.pdf>.

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