Summary of SC98711, *State ex rel. Officer Sergeant Dirk Helms and Chief Joe Edwards v. The Honorable Joseph Alfred Rathert*

Proceeding originating in the Jefferson County circuit court, Judge Joseph Alfred Rathert
Argued and submitted March 30, 2021; opinion issued June 15, 2021

Attorneys: Helms was represented by Blake D. Hill of Hellmich, Hill & Retter LLC in Kirkwood, (314) 646-1110; and Edwards was represented by David C. Berwin of Evans & Dixon LLC in St. Louis, (314) 552-4046. The father was represented by John P. Guletz of Rossiter & Booock LLC in St. Louis, (314) 754-1500; and Bhavani Raveendran of Romanucci & Blandin LLC in Chicago, Illinois, (312) 458-1000.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Police officers seek a writ prohibiting the circuit court from taking any action in the underlying wrongful death suit other than dismissing them as named defendants pursuant to the official immunity and public duty doctrines. In a 6-0 decision written by Judge Paul C. Wilson, the Supreme Court of Missouri makes its preliminary writ permanent. The police officers' allegedly negligent conduct in failing to adopt safety policies and train officers regarding vehicular pursuits constitutes the performance of discretionary duties for which they are protected from personal liability under the official immunity doctrine.

Facts: In 2020, a father filed a wrongful death lawsuit against several De Soto police officers after his daughter died from an automobile accident in the course of a police vehicular pursuit. Sergeant Dirk Helms and Chief Joe Edwards did not actively participate in the police chase; instead, the suit alleged they failed to properly train the De Soto police officers who did and implement proper department policies and procedures for vehicular pursuits. Helms and Edwards moved to dismiss the claims against them on the basis of official immunity and the public duty doctrine. The circuit court overruled their motions. Helms and Edwards now seek this Court's permanent writ prohibiting the circuit court from taking any further action other than dismissing the claims against them.

PRELIMINARY WRIT MADE PERMANENT.

Court en banc holds: Helms and Edwards are immune from personal liability in the underlying wrongful death suit. The official immunity doctrine protects public officials sued in their individual capacities from liability for alleged acts of negligence committed during the course of their official duties for the performance of discretionary acts but provides a narrow exception when a public officer fails to perform a ministerial duty required of him or her by law. Adopting a vehicular pursuit policy, training officers under that policy, and deciding when and how to terminate a vehicular pursuit are replete with discretion. Nothing in section 544.157.4, RSMo – which requires public agencies conducting vehicular pursuits to adopt safety policies for such pursuits – removes this discretion. First, section 544.157.4 places the duty to adopt pursuit policies on the public agency, which neither Helms nor Edward is. Second, even if Helms or Edward was the official charged with that duty, each would retain wide latitude under the statute to determine precisely what vehicle pursuit policy to adopt, when to adopt it, and when and how best to train peace officers under that policy. These are the types of decisions the official immunity doctrine is meant to protect.