OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

JOHN CARLTON,	)	No. ED111694
	)	
Appellant,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	Honorable Dean P. Waldemer
BRANDON MEANS,	)	
	)	
Respondent.	)	FILED: January 30, 2024

This case arises from a vehicular collision between John Carlton and Officer Brandon Means of the City of St. Ann Police Department, who was responding to an emergency call from another officer at the time. The trial court entered summary judgment in favor of Officer Means as to Carlton's claim for personal injuries, concluding that Officer Means was entitled to official immunity. Carlton appeals, arguing that the malice exception to official immunity applies here.

AFFIRMED.

DIVISION TWO HOLDS: The test for the malice exception to official immunity is two-pronged: it requires both that the public official *act* contrary to duty and with a wicked purpose or in reckless disregard of others' rights (i.e., "wantonly") *and* that he or she actually *intends* to injure or prejudice another. The facts in the summary judgment record and the inferences that can be drawn therefrom—even when viewed in the light most favorable to Carlton—do not show that Officer Means had the requisite intent to injure or prejudice Carlton. It is undisputed that he tried to avoid the collision and did not intend to crash into Carlton. Even if Officer Means's *act* of driving over the speed limit and past a stop sign was reckless, that does not show an *intent* to injure anyone, and summary judgment was properly entered in his favor.

Opinion by: Michael E. Gardner, J.
Kurt S. Odenwald, P.J., and Renée D. Hardin-Tammons, J., concur.

Attorney for Appellant: Timothy J. Gallagher

Attorney for Respondent: Timothy J. Reichardt

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