

Supreme Court rules cities liable for certain damages

AUSTIN (AP) — Saying it was its duty to lay the issue to rest, the Texas Supreme Court ruled Wednesday that punitive damages can be recovered against cities and towns under limited circumstances.

"We are aware that our decision today is a fairly novel one with reference to results reached in other jurisdictions and will cause some consternation among municipal leaders and those who serve them," Justice Fred Robertson's 6-3 majority opinion said.

In a Gregg County case, a trial court awarded \$2,000 actual and \$20,000 exemplary — or punitive — damages to Harold Pike Sr. and one of his daughters in a suit against the city of Gladewater for misplacing the body of Johnny Mack Pike, who died in 1952 at age 2.

When Johnny's gravesite was exhumed in 1982 to place the boy's body near that of his mother's in Gladewater Memorial Park, no re-

mains were found, the Supreme Court said.

The court said the Pikes were entitled to actual damages because the city did not keep adequate burial records.

The court decided that the operation of a municipal cemetery is a proprietary rather than a governmental action, and said exemplary damages could be awarded against it in that role under certain circumstances.

"Unless the plaintiff can show intentional, willful, wanton or grossly negligent acts which show maliciousness or evil intent by a policy-making official of the municipality, no exemplary damages can be awarded," the court said.

The court said "if the proper facts exist, a jury should be able to consider awarding punitive damages against a municipality. The proper facts have never arisen in this state, and there is no certainty that they ever will."

So, although the Supreme Court affirmed the Texarkana Court of Appeals holding that exemplary damages are recoverable in limited circumstances, it reversed the trial court and appeals court decisions that allowed the Pikes to recover such damages.

"In the present case, while we sympathize with the Pike family due to the trauma it has undergone, Texas precedent demands that its recovery of exemplary damages be disallowed," the court said.

Justice James Wallace wrote a dissenting opinion, saying the jury's verdict had failed "to establish any causal link between the Pikes' inability to locate Johnny Mack Pike's remains and the failure of the city to keep proper records."

Justices Raul Gonzalez and Robert Campbell joined in the dissent.

"The Pikes did not attempt to locate the child's grave by consulting the city of Gladewater's records," the dissent said.

Computer tips police on burglary

GRAND PRAIRIE (AP) — A computer used by police to detect likely locations for crime scored a direct hit when officers spotted a burglary suspect in the predicted area and arrested him.

The computerized communications system purchased by this West Dallas suburb in 1985 gave police information on a likely suspect, a certain area of town and a time and date for the crime, police spokesman Derek Snow said.

He said Crime Analysis Unit officers had the area under surveillance when the burglary suspect was seen.

The system has been storing police data and, for several months, has been spitting out information concerning criminal suspects — their descriptions, methods of operation and locations, times and dates of offenses.

The computer's most recent tip to officers was that a burglary suspect would strike again between midnight and 4 a.m. Tuesday.

The computer also outlined a target area bounded by four streets.

Snow said a police unit set up surveillance in the area Monday night and spotted the suspect about 3 a.m.

He said the computer, in describing the suspect's method of operation, had observed that the man usually cruised a target area for an hour or more before striking.

Surveillance officers lost sight of the suspect about 4:30 a.m. and decided he had either entered a business or left the area. Police alerted backup patrol officers and the canine unit, who went to the scene and began searching area businesses, Snow said.

A police dog found a burglary suspect hiding inside one business, Bon Air, at 4:40 a.m.

Snow said the suspect had caused about \$400 damage to two doors and had about \$100 worth of stolen property when he was apprehended.

The 36-year-old man was arrested after a brief struggle.

He was taken to a hospital and treated for a dog bite, then placed in city jail.

Police had not yet filed charges against the man with the Dallas County District Attorney's office.

Alien workers win in court suit aimed at discrimination

HOUSTON (AP) — Four undocumented workers fired in February from the Pasadena Independent School District will be rehired and given back pay, a school spokesman said.

The workers filed a class-action suit last week, claiming they were singled out for dismissal because they were Hispanic aliens. School district officials claimed the four were fired because they had placed false Social Security numbers on their work applications.

U.S. District Judge Gabrielle McDonald ruled Tuesday the dismissals violated an anti-discrimination clause of the immigration act that went into effect last fall. The act is intended to allow aliens who have been living illegally in the United States since 1982 to become citizens.

"The clear message that she (the judge) is sending is that employers should be very careful before they take any kind of action against an employee because of their immigration status," said Isaias Torres, one of the attorneys for the four.

The workers are Maria Olympia Hernandez, Reina Raquel Guillen, Blanca Lydia Lopez and Maria Antonia Garza.

Attorney Kelly Frels, who represented the school district, expressed dissatisfaction.

"I was disappointed because I don't think the anti-discrimination clause of the immigration act applies here," Frels said.

Kirk Lewis, administrative assistant to Pasadena Independent School District Superintendent Dr. Lon Luty, said the four would be rehired and given back pay. He said it was unlikely the school district would appeal McDonald's ruling.

Lawyers representing both the plaintiffs and the school district said an appeal probably would be ineffective since the four are expected to apply soon for U.S. citizenship. The Immigration and Naturalization Service is expected to begin accepting applications in May.

McDonald, in issuing her decision, said the school district's policy of firing those who falsify Social Security numbers clashed with the intent of the law.

To qualify for citizenship, the women were required to reveal their work history as undocumented workers, which subjected them to firing.

Recaptured man receives death penalty for killing

SAN ANTONIO (AP) — Jurors sent a man to Texas' death row Wednesday, two days after he escaped through an unlocked jail door after his conviction for the rape-slaying of an FBI secretary.

Karl Hammond, 22, sat motionless as his punishment was read by State District Judge Ted Butler.

In closing arguments, district attorney Fred Rodriguez labeled Hammond a "bully and a coward."

"I don't want to deter others," Rodriguez told jurors. "I want to deter Karl Hammond. He's gotten his day in court. He brought it upon himself."

Defense attorney Ed Garcia said he was not surprised by the punishment.

"We did the best we could to defend Karl from the day we were appointed," he said.

"There's no way I can argue with

the verdict because of the state's evidence that was presented," he said.

Jurors declined to speak with reporters after they issued the punishment of death by injection.

Before the sentence was read, Butler warned spectators to refrain from outbursts.

About 15 sheriff's deputies were spread out in the court room and on either side of Hammond, who was handcuffed and shackled throughout the day's proceedings.

Hammond was convicted Monday of capital murder in the Sept. 4, 1986, rape-slaying of FBI secretary Donna Lynn Vetter.

A few hours after his conviction, he escaped when a jailer left open a door separating a second-floor holding area and a visitation area.

He was recaptured Tuesday night after police saw him running across a street.

A&M prof says Texas coast unprepared for hurricanes

By René Moody
Reporter

Because people tend to postpone planning for hurricanes until alerts are posted, evacuation plans for the Texas Coast are inadequate and need revision, a Texas A&M professor says.

Dr. Philip Berke, assistant professor of architecture who has studied hurricane evacuation plans, says low-risk perception and poor land use by the state are the main reasons plans made in the early 1980s are inadequate.

"Low-risk perception is the tendency of people to discount the risk of hurricanes," Berke says, adding that local government officials often neglect hurricane planning until they face an emergency situation.

During Hurricane Alicia in 1983, Galveston officials postponed calling for an evacuation because they thought it was a small hurricane headed for Corpus Christi.

"Within six to 12 hours, it was upgraded from a tropical storm to a major hurricane with wind speeds of 120 mph," he says. "The National Hurricane Center, because of a low understanding of the steering currents, is only able to give about 12 hours of advance warning."

"Galveston and Brazoria counties take approximately 26 hours to evacuate."

Bob Case, a hurricane specialist with the National Hurricane Center in Miami, says in the past 20 years the center has had an average warning time of 18 or 19 hours before landfall.

"We try to give at least 12 hours of warning, eight of those during daylight hours," Case says.

Public awareness programs, such as hurricane tracking charts printed on shopping bags in coastal areas, are being used to fight low-risk perception, he says.

"The mass media also plays a key

role in raising risk perception," he says.

In 1981, the Federal Emergency Management Agency funded a scientific study to predict how far inland flood waters could reach and how many people could be affected by a major hurricane. The model predicts how many people may need to be evacuated in an emergency situation, Berke says.

He says poor land use planning and lack of building restrictions also create problems with evacuation. Texas' increasing population along the coast has increased the time it will take to evacuate the area.

Berke says he supports a push by lobbyists to create more restrictions. However, by the time restrictions are enacted, the coast will be overpopulated, he says.

Berke says restrictions have been minimal in Texas because of the political culture of Texas and pressure by special interest groups, such as land developers.

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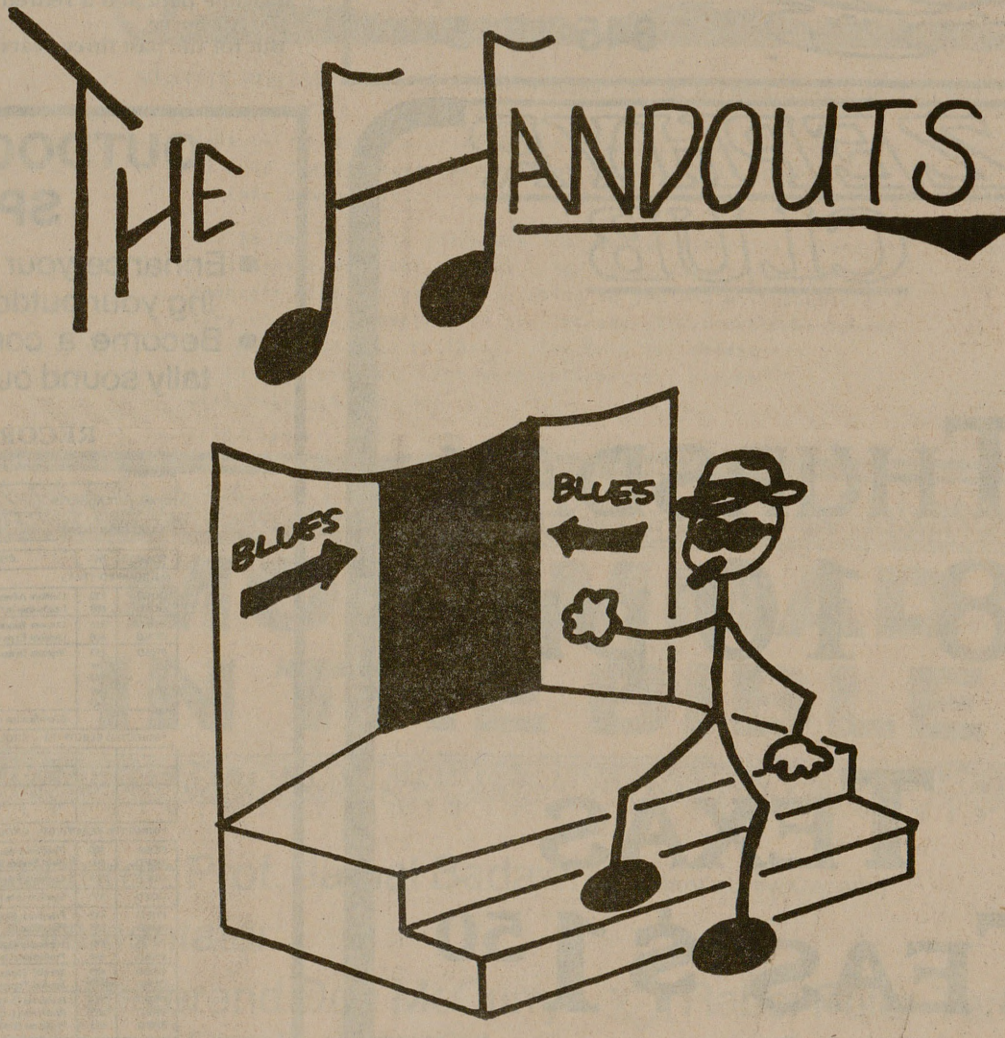
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