

1986

LaDawn Prue v. State of Utah : Unknown

Utah Supreme Court

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Hon. Gordon R. Hall
Chief Justice
Utah Supreme Court
332 State Capitol
Salt Lake City, Utah 84114

Re: LaDawn Prue vs. The State of Utah, et al.
Supreme Court Case No. 20957

Dear Chief Justice Hall:

During oral argument on November 24th, I represented that a recent survey disclosed that a majority of recent cases from other jurisdictions had held against imposing liability on corrections officials under facts more or less similar to those here involved. Most of those cases, however, were not cited in the Briefs and I am taking the liberty of furnishing herewith the citations without any legal or factual argument, solely to supplement the record and perhaps assist the Court's research staff. Most of the cases referred to have been decided since 1981; this restriction was imposed to assist in determining whether any "trends" could be discerned.

Decisions apparently finding the State and/or its employees potentially liable for injuries inflicted upon a third party by an individual under the jurisdiction of State corrections, are as follows:

(1) Alaska - Division of Corrections v. Neakok, 721 P.2d 1121 (Alaska 1986);

(2) Arizona - Grimm v. Arizona Board of Pardons and Paroles, 115 Ariz. 260, 564 P.2d 1227 (1977);

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(3) Idaho - Sterling v. Bloom, 723 P.2d 755 (Idaho 1986);

(4) Kansas - Cansler v. State of Kansas, 234 Kan. 554, 675 P.2d 57 (1984);

(5) Montana - White v. State, 661 P.2d 1272 (Mont. 1983);

(6) New York - Eiseman v. State, 109 A.D.2d 46, 489 N.Y.S.2d 957 (N.Y. App. Div. 1985);

(7) Washington - Petersen v. State, 100 Wash.2d 421, 671 P.2d 230 (1983);

Those decisions which have, since 1981, apparently held that the State and/or its employees are not liable for the acts of individuals under the jurisdiction of State corrections, are as follows:

(1) Alabama - Donahoo v. State, 479 So. 2d 1188 (Ala. 1985);

(2) California - Duffey v. City of Oceanside, 179 Cal. App. 3d 666, 224 Cal. Rptr. 879 (Cal. Ct. App. 1986);

(3) Colorado - State v. Mason, 724 P.2d 1289 (Colo. 1986);

(4) Florida - Reddish v. Smith, 468 So.2d 929 (Fla. 1985);

(5) Georgia - Roberts v. Grigsby, 177 Ga. App. 377, 339 S.E.2d 633 (Ga. Ct. App. 1985);

(6) Indiana - State v. Allen, 427 N.E.2d 2 (Ind. Ct. App. 1981);

(7) Iowa - Anthony v. State, 374 N.W.2d 662 (Iowa 1985);

(8) Louisiana - Jacoby v. State, 434 So.2d 570 (La. Ct. App. 1983);

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(9) Maryland - Lamb v. Hopkins, 303 Md. 236, 492 A.2d 1297 (1985);

(10) Missouri - Kanagawa v. State, 685 S.W.2d 831, (Mo. 1985);

(11) New Mexico - Wittkowski v. State, 103 N.M. 526, 710 P.2d 93 (N.M. Ct. App. 1985);

(12) Oregon - Hendricks v. State, 67 Or. App. 453, 678 P.2d 759 (Or. Ct. App. 1984);

(13) Rhode Island - Orzechowski v. State, 485 A.2d 545 (R.I. 1984);

(14) Virginia - Harlow v. Clatterbuck, 339 S.E.2d 181 (Va. 1986);

(15) Wyoming - Hurst v. State, 698 P.2d 1130 (Wyo. 1985).

Again, we submit this list only to corroborate representations made by counsel at oral argument. Please advise if counsel can be of any further assistance.

Sincerely yours,


ALLAN L. LARSON

ALL:lf

cc: Justice Richard C. Howe
cc: Justice I. Daniel Stewart
cc: Justice Christine M. Durham
cc: Justice Michael D. Zimmerman
cc: Geoffrey J. Butler, Clerk
cc: George Haley, Esq.
cc: Jeff Shields, Esq.
cc: Carlie Christensen, Asst. Attorney General