

Associated Press

April 20, 2006

Police May be Sued for Not Intervening in Domestic Violence Cases

By John O'Connor

SPRINGFIELD, Ill. – Local police agencies' immunity from lawsuits does not apply when they fail to intervene in domestic violence cases, the state Supreme Court ruled Thursday.

Justices decreed that the estate of a Chicago woman may sue police for allegedly ignoring her April 2002 call for help when her estranged husband entered her home with a gun. Witnesses saw two police officers outside the residence in their car, but they drove away without going inside. Ronyale White was shot to death minutes later.

In a separate opinion, however, the court upheld the decades-old tort immunity law, which bars lawsuits against local governments to prevent a flood of litigation that would overburden taxpayers.

The court ruled that the estate of Doris Hays may not sue authorities in Rock Island and Henry counties after a witness reported Hays drove off a highway into a ditch but no one investigated. Hays' body was found three days later near her car at the accident scene.

In the Chicago case, the court decided that the domestic violence law trumped the tort immunity act. The unanimous decision by Justice Thomas Fitzgerald points out that the domestic violence statute grants immunity against local governments "unless the act is a result of willful or wanton misconduct."

There is no such provision in the 41-year-old tort immunity act, which the court said applies to the Hays case. Justice Mary Ann McMorrow believes there should be. As in past cases, she dissented in the Hays matter, arguing that if the Legislature intended to protect local governments from lawsuits for willful and wanton misconduct, the law should say so.

"Blanket immunity should not be afforded to acts performed by local governmental entities or government officials in bad faith, especially where the provision of life-and-death police protection services are at issue," McMorrow wrote.

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