



2012

# Recent Developments: Jones v. State: Public Duty Doctrine Does Not Protect the State against a Negligence Action for Law Enforcement Officers' Intentional Torts; Standard of Care for Law Enforcement Officers' Fourth Amendment Training Does Not Require Expert Testimony

Alicia L. Shelton

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## Recommended Citation

Shelton, Alicia L. (2012) "Recent Developments: Jones v. State: Public Duty Doctrine Does Not Protect the State against a Negligence Action for Law Enforcement Officers' Intentional Torts; Standard of Care for Law Enforcement Officers' Fourth Amendment Training Does Not Require Expert Testimony," *University of Baltimore Law Forum*: Vol. 43 : No. 1 , Article 6.

Available at: <http://scholarworks.law.ubalt.edu/lf/vol43/iss1/6>

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## RECENT DEVELOPMENT

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### ***JONES V. STATE: PUBLIC DUTY DOCTRINE DOES NOT PROTECT THE STATE AGAINST A NEGLIGENCE ACTION FOR LAW ENFORCEMENT OFFICERS' INTENTIONAL TORTS; STANDARD OF CARE FOR LAW ENFORCEMENT OFFICERS' FOURTH AMENDMENT TRAINING DOES NOT REQUIRE EXPERT TESTIMONY.***

**By: Alicia L. Shelton**

The Court of Appeals of Maryland held that the public duty doctrine did not protect the State against a claim for negligent retention and training when its police officers committed an intentional tort. *Jones v. State*, 425 Md. 1, 38 A.3d 333 (2012). Additionally, the court held that expert testimony was not necessary to support a claim of negligent training when the relevant standard of care is common knowledge or easily understood by the trier of fact. *Id.* at 26, 38 A.3d at 348. Finally, the court held that there was legally sufficient evidence that the State negligently trained the officers based on the officers' testimony. *Id.* at 32, 38 A.3d at 351.

On September 15, 2006, Kimberly Jones ("Jones") awoke in her apartment in Greenbelt, Maryland to officers at her door asking for Lamarr Wallace ("Wallace"). Wallace was not a resident of the apartment and Jones informed the officers that he was not there. Jones told the officers that they could not enter the apartment. The officers forced their way into the apartment and, during the course of the struggle, punched Jones in the face, sprayed her with pepper spray, and beat her.

On November 27, 2007, Jones filed a complaint in the Circuit Court for Prince George's County, alleging ten various counts against the officers and the State, including battery and false imprisonment. Jones amended the complaint to include negligent training and supervision by the State. At trial, the officers testified that they attended the police academy, received annual training, completed yearly re-certification, and the Prince George's County Sheriff's Office was responsible for keeping them abreast of Fourth Amendment standards for search and arrest procedures. At the close of Jones's case, the State moved for summary judgment on the grounds that the officers did not owe an individual duty to Jones, and that Jones failed to establish that the officers' training deviated from Fourth Amendment or otherwise acceptable standards. The circuit court denied the motion for summary judgment and the jury found the State liable for negligent training and retention.

The State appealed to the Court of Special Appeals of Maryland, again alleging that the officers did not owe a duty to Jones and that Jones failed to establish that the officers' training deviated from Fourth Amendment or otherwise acceptable standards. The intermediate appellate court reversed, holding that Jones failed to establish the necessary standard of care for negligent training because she did not provide expert testimony. The Court of Special Appeals decided the case on the sufficiency of evidence for the standard of reasonable care and did not address the public duty doctrine argument. Jones petitioned for a writ of certiorari, which the Court of Appeals of Maryland granted.

The Court of Appeals of Maryland began its analysis by addressing the State's argument that the public duty doctrine shielded it from Jones's claim of negligent training. *Jones*, 425 Md. at 20, 38 A.3d at 344. The court pointed out that under the public duty doctrine, the duty owed by police officers is one to protect the public at large and is not enforceable as a duty to a particular individual. *Jones*, 425 Md. at 20, 38 A.3d at 344 (citing *Muthukumarana v. Montgomery Cnty.*, 370 Md. 447, 486-87, 805 A.2d 372, 395 (2002)). The public duty doctrine provides that a police officer is not liable to an individual for harms incurred when the officer is in the role of protecting the individual from third-party inflicted or private harms. *Jones*, 425 Md. at 23, 38 A.3d at 346 (citing *Ashburn v. Anne Arundel Cnty.*, 306 Md. 617, 628, 510 A.2d 1078, 1083).

The court noted that it had not previously determined if the public duty doctrine applied when the officer involved, rather than a third party, directly caused the injury. *Jones*, 425 Md. at 24, 38 A.3d at 346-47. In addressing the issue, the court relied on the reasoning of other jurisdictions, which held that the public duty doctrine only applied when there was an allegation that the officer failed to protect the individual from a third party injury. *Jones*, 425 Md. at 23-24, 38 A.3d at 346-47 (citing *Strickland v. Univ. of N.C. at Wilmington*, 712 S.E.2d 888, 892 (N.C. Ct. App. 2011), *review denied*, 720 S.E.2d 677 (N.C. 2012)).

In addition to other jurisdictions' holdings, the court also considered the public policy rationale behind the public duty doctrine. *Jones*, 425 Md. at 25-26, 38 A.3d at 347. The court noted that if the police owed a duty to every individual for an alleged failure to respond, it would pressure officers to make hasty decisions and would unduly burden the judicial system. *Jones*, 425 Md. at 21, 38 A.3d at 344-45 (citing *Ashburn*, 306 Md. at 629-30, 510 A.2d at 1084). The court concluded that when the officer directly caused the injury, the public policy concerns are not as significant. *Jones*, 425 Md. at 24, 38 A.3d at 347 (citing *District of Columbia v. Evans*, 644 A.2d 1008, 1017 n.8 (D.C. 1994)). The court held that because Jones's claim of negligent training resulted from direct injurious action by the officers, the public duty doctrine was not a defense. *Jones*, 425 Md. at 25-26, 38 A.3d at 347.

Next, the court considered whether Jones had to provide expert testimony to establish the requisite standard of care in her claim for negligent training. *Jones*, 425 Md. at 26-28, 38 A.3d at 347. The court emphasized that experts are usually required to establish a relevant standard of care in negligence cases unless the standard of care is obvious, easily understood, or common knowledge. *Jones*, 425 Md. at 26, 38 A.3d at 347-48 (citing *Schultz v. Bank of Am.*, 413 Md. 15, 29, 990 A.2d 1078, 1087 (2010)). In this instance, the court determined that the Fourth Amendment established the standard of care in a claim for negligent training. *Jones*, 425 Md. at 27, 38 A.3d at 348. The court concluded that because the trial judge properly instructed the jury as to the constitutionally established standard during jury instructions, the jury possessed sufficient “common knowledge or experience” so that Jones did not need to present expert testimony. *Id.* at 28, 38 A.3d at 349.

The final issue addressed by the court was whether Jones provided legally sufficient evidence to establish that the State negligently trained the officers. *Jones*, 425 Md. at 28, 38 A.3d at 349. The court first noted that an officer can enter a third party’s home with a search warrant, but cannot enter a third party’s home with an arrest warrant, even if the officer believed the subject was inside. *Jones*, 425 Md. at 29, 33, 38 A.3d at 349, 351 (citing *Steagald v. United States*, 451 U.S. 204, 211 (1981)).

The court looked directly to the testimony of the officers to establish negligence because there was no dispute that the State had a duty to train its officers in Fourth Amendment rules for executing arrest and search warrants. *Jones*, 425 Md. at 30, 38 A.3d at 350. The court concluded that the officers’ testimony demonstrated the requisite “slight evidence” to support Jones’s claim. *Id.* at 32, 39 A.3d at 351.

In *Jones*, the Court of Appeals of Maryland established that the State and its officers could not use the public duty doctrine as a defense for intentional torts. The State has a duty to individuals and can be liable to individuals if they can demonstrate injury by officers. This ruling could have significant fiscal impacts on the State by allowing recovery in tort claims for negligent training, and could open the door to recovery in other actions, such as negligent supervision. If the State cannot use the public duty doctrine as a defense in these claims, it could frequently be found liable or might be forced to settle claims that it otherwise might have defended. In the future, the State can insulate itself from costly litigation by investing in preventative measures such as additional officer training on Fourth Amendment procedures, department hiring practices, and management skills.