Court of Appeals, State of Michigan

ORDER

Estate of Bruce D Boone v Deanna Papanek

Docket No. 298579

LC No. 05-001479-NI

William C. Whitbeck
Presiding Judge

Peter D. O'Connell

Patrick M. Meter
Judges

The Court orders that the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

O'Connell, J., respectfully dissents:

Governmental employees are protected from tort liability unless they commit gross negligence that is the proximate cause of plaintiff's injuries. The negligence must be the one most immediate and direct cause of the injury. In the present case there exists no allegation that the governmental employees were the proximate cause of this injury. Nor does the lower court record explain how MDOT employees can be held responsible for this injury when MDOT owed no duty to plaintiffs regarding the repair or maintenance of the shoulder of the highway. I would grant leave to resolve these important issues.

COURT OF APPEALS OF THE STATE OF MICHIGAN
TUEBOR
CIRCUMSPICE
1965

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 29 2010
Date

Sandra Schultz Mengel
Chief Clerk