

STATE OF MICHIGAN
COURT OF APPEALS

BRITTEN STRINGWELL,

Plaintiff-Appellant,

v

ANN ARBOR PUBLIC SCHOOL DISTRICT,

Defendant-Appellee.

FOR PUBLICATION

July 6, 2004

9:20 a.m.

No. 247052

Washtenaw Circuit Court

LC No. 02-000343-NI

Official Reported Version

Before: Hoekstra, P.J., and O'Connell and Donofrio, JJ.

O'CONNELL, J. (*dissenting.*)

I respectfully dissent. The trial court dismissed this cause of action because it implicitly found that the student who started the vehicle was not an "officer, agent, or employee" of the school district. The record establishes that a teacher for the school told the student to start the vehicle so that the class could check the vehicle's fluid levels. Because the student acted at the direction of the teacher and used the vehicle with the teacher's permission, the student acted as an agent of the school district. *Roberts v Lundy*, 301 Mich 726, 729; 4 NW2d 74 (1942). Because this incident fell within the automobile exception to governmental immunity, the trial court erred when it granted summary disposition to the school district. MCL 691.1405. I would reverse.

/s/ Peter D. O'Connell