

Court: Fla. cops can be sued over 'safety checks'

January 29, 2009 • By BILL KACZOR, Associated Press Writer

Law enforcement agencies can be sued over "safety checks" that go bad, a sharply divided Florida Supreme Court said Thursday.

The justices ruled 4-3 in the case of a woman who later died after two Marion County deputies, responding to a 911 call, refused to summon an ambulance even though they couldn't wake her. One of the deputies entered her home through an unlocked window.

Two dissenting justices said they feared the ruling would discourage law enforcement agencies, other government employees and private citizens from helping in such cases for fear of being sued.

The deputies owed the woman, Brenda Wallace, "a common-law duty of care" upon responding to the 911 call placed after her daughter, who was out of state, and neighbors were unable to get her to answer the phone or respond to knocks on her doors and windows, Justice R. Fred Lewis wrote for the majority.

"These agents of the sheriff responded to the scene, entered a home, engaged the unconscious resident, provided an assessment of her safety, and further assured concerned third parties that she was simply asleep and did not need medical attention," Lewis wrote.

He added the deputies, because they were in a position of authority, "increased the risk of harm" by discouraging neighbors from calling an ambulance themselves. The neighbors, though, did call one the next day because Wallace was still unresponsive and had soiled herself. She was taken to a hospital where she died several days later without regaining consciousness.

The ruling reverses decisions by a trial judge, who had dismissed a lawsuit by the woman's daughter, Kelly Wallace, and the 5th District Court of Appeal. The case now goes back to Marion County for trial.

"We have always believed that all of us, law enforcement included, have a duty to each other to use reasonable care," said Mark Avera, Wallace's lawyer. "Our Supreme Court confirmed that principle."

In his dissent, Justice Charles Wells quoted from the appellate ruling, which suggested police would stop doing safety checks or call an ambulance even when not needed. Wells then wrote that the neighbors also may be subject to liability for waiting a day to call an ambulance.

The Marion County Sheriff's Office, though, has no plans to halt safety checks, said James Pogue, a spokesman for Sheriff Ed Dean.

"Our stance is if you call 911 we're going to respond," Pogue said.

He said the agency is ready to take the case to trial but declined to discuss details because it remains unresolved.

"We stand behind our officers," he said.

Justice Charles Canady joined Wells' dissent, which also argued the high court should not have taken the case because it differed in some respects from a conflicting appellate ruling. Justice Ricky Polston cited only a lack of conflict in a separate dissent.

Lewis, though, wrote that conflicting cases need only be similar, not identical, in their factual scenario to trigger Supreme Court jurisdiction.

Reprinted courtesy of The Associated Press.

Getting Forgetful

While on a road trip, an elderly couple stopped at a roadside restaurant for lunch. After finishing their meal, they left the restaurant, and resumed their trip.

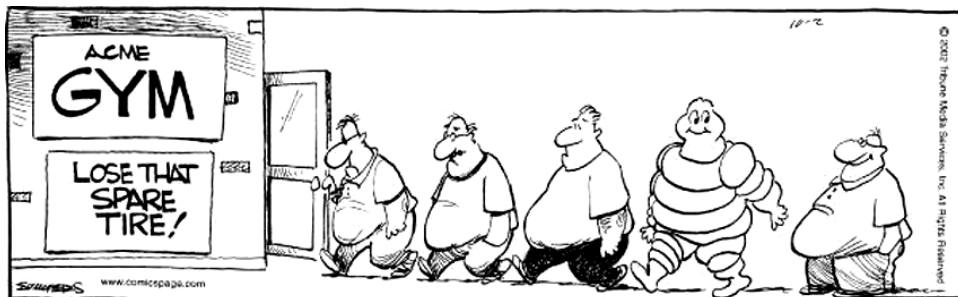
When leaving, the elderly woman unknowingly left her glasses on the table, and she didn't miss them until they had been driving about forty minutes.

By then, to add to the aggravation, they had to travel quite a distance before they could find a place to turn around, in order to return to the restaurant to retrieve her glasses.

All the way back, the elderly husband became the classic grouchy old man. He fussed and complained, and scolded his wife relentlessly during the entire return drive. The more he chided her, the more agitated he became. He just wouldn't let up one minute.

To her relief, they finally arrived at the restaurant.

As the woman got out of the car, and hurried inside to retrieve her glasses, the old geezer yelled to her, "While you're in there, you might as well get my hat and the credit card."



Prescription Drugs Killing More Than Cocaine, Heroin

A report by the Florida Medical Examiners Commission has concluded that prescription drugs have outstripped illegal drugs as a cause of death in the Panhandle State.

An analysis of 168,900 autopsies conducted in Florida in 2007 found that three times as many people were killed by legal drugs as by cocaine, heroin and all methamphetamines combined.

Many critics of U.S. drug policy call it the "whack-a-mole" phenomenon where enforcement in certain areas, (in this case illicit narcotics) correlates to an increase in other areas such as prescription drugs.

"The abuse has reached epidemic proportions," Lisa McElhaney, a sergeant in the pharmaceutical drug division of the Broward County Sheriff's Office, told the *Natural News* publication. "It's just explosive."

In 2007, cocaine was responsible for 843 deaths, heroin for 121, methamphetamines for 25 and marijuana for zero, for a grand total of 989 deaths by illicit drugs.

In contrast, 2,328 people were killed by such prescription drugs as opioid painkillers (including Vicodin and Oxycontin), and 743 were killed by drugs containing benzodiazepine (including the depressants Valium and Xanax).

Reprinted courtesy of American Police Beat, January 2009.

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~ John Quincy Adams

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