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CARTER V. ABBYAD

In a recent decision, the Texas Court of Appeals (Austin), upheld a trial court's decision and *refused to impose a legal duty on the companions of a person under the influence of drugs to protect others from the behavior of that person*. The Court stated that a person is not responsible for the tortious acts of another in the absence of either (1) a special relationship recognized in law or (2) the voluntary taking of control and the other's reliance on that control. *Carter v. Abbyad*, No. 03-07-00251 (Tex. App.—Austin, Nov. 4, 2009).

FACTS OF THE CASE

The Court considered the facts as alleged by the plaintiffs. While at a private home, the plaintiffs alleged that the defendants provided Dustin McManus ("McManus") with and/or watched him consume behavior-altering drugs, including marijuana and hallucinogenic mushrooms. They further alleged that the defendants knew that McManus consumed more than three times the normal dose of mushrooms and that he had a knife.

The plaintiffs further asserted that the defendants knew that McManus' behavior was becoming very bizarre, threatening, and unpredictable as time went on. Despite all this, the defendants took McManus to a Halloween party, and once at the party, McManus's behavior grew still more bizarre and threatening. Eventually, McManus stabbed one of the defendants and then stabbed the plaintiffs and others.

The plaintiffs brought suit against the defendants alleging that their negligence was the proximate cause of the injuries. The defendants filed a motion to dismiss the case on the basis that they did not have a legal duty to control the actions of McManus and the lower court dismissed the case.

THE COURT OF APPEALS' DECISION

In a decision delivered by Justice Waldrop, the Austin Court of Appeals analyzed the law related to an individual's duty to control the acts of another.

The court pointed out that Texas law generally imposes no duty to control the acts of another person to prevent harm to third parties absent certain special relationships or circumstances. The court further pointed out that "common law has long recognized the imbiber maintains the ultimate power and thus the obligations to control his own behavior." However, citing *Venetoulis v. O'Brien*, 909 S.W.2d 236, 240 (Tex. App.—Houston [14th Dist.] 1995, writ dismissed), the court recognized that a party who agrees to attempt to help someone else has a duty to provide that help without negligently harming the person in need.

The court further stated that they found the behavior of McManus and the defendants reprehensible pointing out that “McManus foolishly chose to consume the hallucinogenic substances he did, particularly in excess,” and that “the consequences to plaintiffs of defendants' actions in transporting McManus to the party and failing to alert others to his condition, if proven as alleged, contributed to a chain of events that caused significant damage to a number of people.”

However, upon reviewing the facts of the case, the court held that the plaintiffs had not alleged facts sufficient to demonstrate that defendants owed them a duty under Texas law to have attempted to control McManus' behavior or not transport him to the party. The court, therefore, upheld the lower court’s decision saying, “In the face of Texas courts' repeated emphasis on the personal responsibility of the person who chooses to chemically alter his mental state we conclude that the trial court did not err in dismissing plaintiffs' claims. The relevant authority... sets out the rule that, absent some sort of special relationship recognized in the law or voluntarily taking control of another with the other's reliance on that control, a person is not responsible for the tortious acts of another.”

WHAT EFFECT WILL THIS DECISION HAVE?

This case confirms prior rulings in Texas refusing to recognize that individuals have any legal right or obligation to control the actions of others. As stated in the opinion, the Texas courts have repeatedly emphasized the ultimate responsibility rests with the person who chooses to take drugs and chemically alter their own mental state. This decision by the Austin Court of Appeals perpetuates that philosophy.



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