

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PATRICIA DEEMER, Individually and	:	CIVIL ACTION
Duly Appointed, Qualified, Acting Legal	:	
Representative and as Administrator of the	:	
Estate of Wade Evan Deemer	:	
	:	
	:	
v.	:	
	:	
COUNTY OF CHESTER (BOROUGH OF	:	
WEST CHESTER), et al.	:	NO. 03-6536

AMENDED ORDER AND OPINION

JACOB P. HART
UNITED STATES MAGISTRATE JUDGE

DATE: January 25, 2005

On January 13, 2005, I ruled upon the County of Chester, Borough of West Chester (“West Chester”)’s motion for summary judgment, granting it in part. I let stand Plaintiff’s cause of action under the theory of “state-created danger.” After further consideration, however, I will amend my order to dismiss the state-created danger claim.

It is apparent from Kneipp v. Tedder, 95 F.3d 1199 (3d Cir. 1996) that the state-created danger doctrine was established to impose substantive due process requirements on a state actor where no “special relationship” existed between the state actor and the injured citizen. In that case, the Court of Appeals for the Third Circuit found that the injured plaintiff was unable to prove the existence of a special relationship such as that spoken of in DeShaney v. Winnebago Cty. Social Services Department, 489 U.S. 189 (1989),¹ primarily because she was not in the custody of the police officer defendants when she was harmed. 95 F.3d at 1205 and 1209, n. 22 (“the special relationship in DeShaney has a custodial element to it”).

¹In DeShaney, the Supreme Court said: “The rationale for [the principle underlying the ‘special relationship’ doctrine] is simple enough: When the state by the affirmative exercise of its power so restrains an individual’s liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs – e.g., food, clothing, shelter, medical care, and reasonable safety – it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause.” 489 U.S. at 200.

In this case it is an acknowledged fact that the decedent, Wade Evan Deemer, was in the custody of the West Chester police department at the time of his death. Clearly, a special relationship existed. DeShaney, supra; Falcon v. City of Philadelphia, 18 F. Supp. 2d 537, 540 (E.D. Pa. 1998), aff'd 185 F.3d 871 (Table) (3d Cir. 1999); cert. denied, 529 U.S. 1093 (2000). For this reason, there is no need to look further, to the state-created danger doctrine.

Even if a state-created danger claim could be brought where a special relationship exists, it would be redundant in this case. As a factual matter, both doctrines seek to prove the same thing: that West Chester violated its affirmative duty to protect Wade Deemer's safety. Accordingly, I will amend my January 13, 2005, decision to provide that summary judgment is granted in favor of Defendant on Plaintiff's state-created danger claim.

ORDER

AND NOW, this 25th day of January, 2005, it is hereby ORDERED that this Court's Order and Opinion of January 13, 2005, docketed in this case as Document No. 32, is AMENDED in the following respect:

Summary judgment is GRANTED in favor of Defendant on Count III of Plaintiff's Complaint.

BY THE COURT:

JACOB P. HART
UNITED STATES MAGISTRATE JUDGE