

From Pursuit To Lawsuit

Liability For A Police Chase Accident

They pass us with unfortunate regularity—ambulances speeding to a stricken person or a hospital, fire trucks rushing to fight flames, police cruisers racing after an offender. But sometimes they never make it, as despite the care and skill of their drivers and the respect and deference of other motorists, accidents occur.

In the case of the police, sometimes it is the vehicle being pursued that gets into an accident with another. In such situations, questions may arise as to whether the pursuing authority may be held responsible, and even whether there was an active chase occurring at the time.

Such questions were explored in *Adams vs. Nebraska*, decided on August 29, 2000, by the Nebraska Court of Appeals.

According to the Court, on April 29, 1994, Roger J. Adams was driving his 1955 Ford Thunderbird eastbound on US Highway 77 in Saunders County, Nebraska. James Kreizel was driving a 1976 Ford pickup westbound. When Kreizel pulled out to pass the vehicle in front of him, he collided head-on with Adams' T-Bird. Both Adams and Kreizel suffered injuries to themselves and their vehicles.

Adams, his wife, and his insurer sued the State of Nebraska under the State Tort Claims Act. They alleged that at the time of the accident, the Nebraska State Patrol, specifically Trooper Todd Steckelberg, was pursuing Kreizel and that this pursuit was the proximate (legal) cause of the accident.

Before the accident occurred, Steckelberg was proceeding east on Highway 77, following Saunders County deputy sheriff Mitchell Bridges. Bridges clocked Kreizel going over 80mph, radioed this information to Steckelberg, and both officers then turned their vehicles around intending to pursue Kreizel. The evidence conflicted as to whether the accident occurred before they began to pursue Kreizel.

The Adams's separately settled with Kreizel.

The State moved for summary judgment, requesting that the district court dismiss the case. The district court granted the State's motion. The plaintiffs appealed.

The Court of Appeals reversed the lower court's rulings, and sent the case back down for trial.

The appellate court began by reviewing the relevant section of the Nebraska Statutes in effect at the time of the accident: "In case of death, injury, or property damage to any innocent third party proximately caused by the action of a law enforcement officer employed by the state during vehicular pursuit, damages shall be paid to such third party by the state. For purposes of this section, vehicular pursuit shall mean an active attempt by a law enforcement officer operating a motor vehicle to apprehend one or more occupants of another motor vehicle when the driver of the fleeing vehicle is or should be

aware of such attempt and is resisting apprehension by maintaining or increasing his or her speed, ignoring the officer, or attempting to elude the officer while driving at speeds in excess of those reasonable and proper under the conditions."


Kreizel testified in his deposition that he was not aware of any pursuit and that if he had seen a police officer behind him with his or her lights on, he would have pulled over.

Steckelberg and Bridges testified that, although they turned around, no siren or emergency lights had been turned on and no pursuit had commenced prior to the accident.

On the other hand, the plaintiffs claimed that other evidence introduced at the hearing created an issue of fact regarding the existence of a vehicular pursuit, which issue of fact would have to be decided in a trial, preventing a court from granting summary judgment.

The plaintiffs argued that Steckelberg's and Bridges' statements were directly in conflict with the "Investigator's Motor Vehicle Accident Report" signed by Steckelberg. In that report, Steckelberg stated: "Vehicle #2 [Kreizel] was clocked at 83mph on radar by this Officer. When attempting to catch up with this vehicle, I observed #2 attempt to pass a truck pulling a horse trailer. I could clearly see oncoming traffic, as #2 attempted to go over to the South shoulder striking vehicle #1 [Adams] who was Eastbound, head on."

Mrs. Adams testified that as she was following her husband in her own vehicle proceeding east, she observed flashing police lights coming from the westbound direction. She testified that when she first saw the lights, they were approximately three-quarters to a half of a mile away and that they were a short distance behind the Kreizel pickup, which she estimated at an eighth of a mile away. Furthermore, she stated that shortly after the accident, in Mr. Adams's hospital room, one of the police officers who investigated the accident told the Adamses that Steckelberg and Bridges had been chasing Kreizel because he was speeding and driving erratically.

The Court agreed with the plaintiffs. "Viewing the evidence in a light most favorable to the plaintiffs and giving them the benefit of all reasonable inferences deducible from the evidence, we conclude that a genuine issue of material fact exists as to whether a vehicular pursuit took place prior to the accident in question and whether the accident occurred as a result of this pursuit. Therefore, the district court erred in finding that no genuine issues of material fact existed." 

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