IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

ERICA DUNSON, as Administrator of the Estate of William Dunson, deceased,	:	APPEAL NO. C-250573 TRIAL NO. A-2305514
Plaintiff-Appellee,	:	
vs.	:	*JUDGMENT ENTRY*
SPRINGFIELD TOWNSHIP,	:	
ESTATE OF TIMOTHY UNWIN,	:	
and	:	
RICK BLEY,	:	
Defendants-Appellants.	:	

This cause was heard upon the appeal, the record, the briefs, and arguments.

For the reasons set forth in the Opinion filed this date, the judgment of the trial court is affirmed in part and reversed in part, and the cause is remanded.

Further, the court holds that there were reasonable grounds for this appeal, allows no penalty, and orders that costs be taxed to defendants-appellants.

The court further orders that (1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and (2) the mandate be sent to the trial court for execution under App.R. 27.

To the clerk:

Enter upon the journal of the court on 8/26/2026.

Pursuant to App. R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: _____
Judge

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vs.	:	*O P I N I O N*
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ESTATE OF TIMOTHY UNWIN,	:	
and	:	
RICK BLEY,	:	
Defendants-Appellants.	:	

Civil Appeal From: Hamilton County Court of Common Pleas

Judgment Appealed From Is: Affirmed in Part, Reversed in Part, and Cause Remanded

Date of Judgment Entry on Appeal: August 26, 2026

Robert L. Gresham, Michael L. Wright, Fanon A. Rucker, and *Shean D. Williams*, for Plaintiff-Appellee,

Schroeder, Maundrell, Barbiere & Powers, *Katherine L. Barbiere,* and *Lawrence E. Barbiere*, for Defendants-Appellants.

NESTOR, Judge.

{¶1} Concerned for the safety of his fellow officer, Officer Timothy Unwin drove his police cruiser more than 50 m.p.h. over the speed limit through a construction zone in the middle of the night. Officer Unwin lost control of his car and crashed into William Dunson, a passing motorist. Both Officer Unwin and Dunson tragically lost their lives.

{¶2} Erica Dunson, William's wife, sued Springfield Township, Officer Unwin's Estate, and the chief of police at the time, Rick Bley. Defendants claimed sovereign immunity and moved for summary judgment. The trial court denied their motion for summary judgment. Defendants now appeal the denial.

{¶3} Because we agree that a genuine issue of material fact exists as to whether Officer Unwin was operating his cruiser in a way that constituted wanton misconduct, we affirm the trial court's denial of immunity at the summary judgment stage as to Springfield Township. However, we reverse the trial court's judgment as it relates to Chief Bley's immunity. Chief Bley is entitled to immunity for claims asserted against him in his individual capacity.

I. Factual and Procedural History

{¶4} On March 31, 2023, Officer Unwin was on duty as a patrol officer with the Springfield Township Police Department. Around midnight, he received an "officer needs assistance" call. A fellow officer, Officer Nash, had gotten into a physical altercation with individuals while conducting a traffic stop. Officer Unwin proceeded to respond to the call to assist Officer Nash.

{¶5} Another police officer, Officer Whyle, also responded to the call. As Officer Whyle was driving to the scene, he received an update that the individuals involved in the altercation with Officer Nash were in custody.

{¶6} To respond to the call, Officer Unwin drove his cruiser between 78.6 and 84.3 m.p.h. through a construction zone, which had a posted speed limit of 25 m.p.h. While attempting to pass another motorist, Officer Unwin lost control of his car and hit a median. His car flipped and landed on top of William Dunson's car. Officer Unwin and Dunson lost their lives as a result.

{¶7} Erica Dunson, William's wife and the administrator of his estate, brought claims for negligence, wrongful death, and survivorship against Officer Unwin's estate, Chief of Police Rick Bley, and Springfield Township.

{¶8} Defendants moved for summary judgment, arguing that Ohio's political-subdivision immunity law, R.C. Ch. 2744, shields them from Dunson's claims. The trial court denied their motion.

{¶9} This appeal followed.

II. Analysis

{¶10} In one assignment of error, appellants argue that the trial court erred in denying the motion for summary judgment.

A. Non-Immunity Arguments

{¶11} Under their sole assignment of error, appellants present multiple issues for our review. Some of those issues concern whether Dunson properly presented her claims to Officer Unwin's estate, and whether appellants were entitled to summary judgment on the merits of Dunson's wrongful death and survivorship claims.

{¶12} Generally, a denial of a motion for summary judgment is not a final appealable order. *Middlebrooks v. Cincinnati Metro. Hous. Auth.*, 2025-Ohio-2851, ¶ 9 (1st Dist.). However, an order which denies a political subdivision or its employee the benefit of immunity under R.C. Ch. 2744 is a final appealable order pursuant to R.C. 2744.02(C). *Id.*, citing *Hubbell v. Xenia*, 2007-Ohio-4839, ¶ 27. Whether an

employee receives statutory immunity is a "separate question" from a plaintiff's ability to establish the elements of a claim. *Argabrite v. Neer*, 2016-Ohio-8374, ¶ 10.

{¶13} "When appealing a denial of immunity under R.C. 2744.02(C), and where the order is not otherwise final and appealable, a party may not raise other alleged errors concerning the denial of summary judgment." *Cincinnati v. Harrison*, 2014-Ohio-2844, ¶ 49 (1st Dist.). Our review is limited to "alleged errors that involve the denial of the benefit of an alleged immunity from liability." (Cleaned up.) *Thomas v. Covrett*, 2025-Ohio-2058, ¶ 8 (1st Dist.).

{¶14} Therefore, we limit our review to arguments regarding the denial of R.C. Ch. 2744 immunity. We decline to address appellants' other arguments.

B. Political Subdivision Immunity

{¶15} Appellants assert that Springfield Township is immune from Dunson's claims. R.C. Ch. 2744 provides a three-tiered analysis to determine whether a political subdivision is immune from tort liability. *McConnell v. Dudley*, 2019-Ohio-4740, ¶ 20.

{¶16} The first tier of the analysis provides political subdivisions with a presumption of immunity from most monetary suits. *Id.* at ¶ 21. A "political subdivision is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the political subdivision . . . in connection with a governmental . . . function." R.C. 2744.02(A)(1).

{¶17} The second tier outlines five exceptions that may expose the subdivision to liability. *McConnell* at ¶ 22. Relevant to this appeal, "political subdivisions are liable for injury, death, or loss to person or property caused by the negligent operation of any motor vehicle by their employees when the employees are engaged within the scope of their employment and authority." R.C. 2744.02(B)(1). If, however, the

employee "was operating a motor vehicle while responding to an emergency call and the operation of the vehicle did not constitute willful or wanton misconduct," then that constitutes a "full defense[] to that liability." *Id.*

{¶18} Put another way, R.C. 2744.02(B)(1) "provides a full defense to a political subdivision for motor-vehicle liability" under three conditions: "(1) the vehicle's operator was a member of the municipal corporation's police department, (2) the officer was responding to an emergency call, and (3) the operation of the vehicle did not constitute willful or wanton misconduct." *Smith v. McBride*, 2011-Ohio-4674, ¶ 18.

{¶19} Then, if one of the exceptions to immunity applies, and the defenses under R.C. 2744.02(B)(1) do not apply, the third tier of the analysis requires a court to determine whether R.C. 2744.03 reinstates immunity. *McConnell*, 2019-Ohio-4740, at ¶ 23. As appellants do not make specific arguments as to Springfield Township's political subdivision immunity under the third tier of the analysis, we decline to address it.

{¶20} The parties agree that, under the first tier, R.C. 2744.02(A)(1) provides Springfield Township with a presumption of immunity. Springfield Township is a political subdivision, Dunson seeks to hold it "liable in damages in a civil action for injury [and] death," R.C. 2744.02, and it is undisputed that Officer Unwin's operation of a police cruiser in the scope of his job as a police officer is a governmental function. *See McConnell* at ¶ 24.

{¶21} Therefore, whether Springfield Township receives political subdivision immunity hinges on the second tier of the immunity analysis.

{¶22} As noted above, R.C. 2744.02(B)(1)(a) provides that subdivisions are not liable for injury resulting from the negligent driving of police-agency employees

responding to an emergency call, so long as "the operation of the vehicle did not constitute willful or wanton misconduct."

1. Emergency Call

{¶23} Appellants argue that Officer Unwin was responding to an "officer needs assistance" call, which they argue qualifies as responding to an emergency call. Dunson, in turn, contends that because the call had been cancelled or downgraded to a lower priority, Officer Unwin was no longer responding to an emergency call. She asserts that, at a minimum, whether Officer Unwin was responding to an emergency call presents a factual issue that precludes summary judgment.

{¶24} The Ohio Supreme Court has adopted a broad definition of emergency call for the purposes of political subdivision liability. R.C. 2744.01(A) defines "[e]mergency call" as "a call to duty, including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer." In *Colbert v. Cleveland*, 2003-Ohio-3319, ¶ 15, the Court explained that an "emergency call" is not "only those situations that were inherently dangerous." Instead, any "situation to which a response by a peace officer is required by the officer's professional obligation" meets the definition of "emergency call." *Id.* The Court reaffirmed this definition eight years later in *Smith*, 2011-Ohio-4674, at ¶ 23.

{¶25} In his deposition, Chief Bley indicated that even if the call had been cancelled or downgraded to a lower priority, Officer Unwin still would have had to respond to the scene to ensure everything was taken care of. Officer Unwin, therefore, was under a "professional obligation" to respond to the situation.

{¶26} Regardless of whether there was, in fact, an urgent emergency in progress, Officer Unwin was responding to an "emergency call" under the Ohio

Supreme Court's broad definition of the phrase.

2. Willful or Wanton Misconduct

{¶27} Even though Officer Unwin was responding to an emergency call, Springfield Township's immunity may still be stripped if Officer Unwin's operation of the cruiser constituted "willful or wanton misconduct." R.C. 2744.02(B)(1)(a).

{¶28} Willful or wanton misconduct is conduct that is more than mere negligence. *See Anderson v. Massillon*, 2012-Ohio-5711, paragraphs one, two, and three of the syllabus. Willful misconduct "implies an intentional deviation from a clear duty or from a definite rule of conduct, a deliberate purpose not to discharge some duty necessary to safety, or purposefully doing wrongful acts with knowledge or appreciation of the likelihood of resulting injury." *Id.* at paragraph two of the syllabus, citing *Tighe v. Diamond*, 149 Ohio St. 520 (1948).

{¶29} The record does not reflect that Officer Unwin acted intentionally when he crashed the cruiser. Immunity, then, depends on whether his conduct was wanton.

{¶30} The Ohio Supreme Court defines wanton misconduct as "the failure to exercise any care toward those to whom a duty of care is owed in circumstances in which there is great probability that harm will result." *Id.* at paragraph three of the syllabus, citing *Hawkins v. Ivy*, 50 Ohio St.2d 114 (1977). "[O]ne acting in a wanton manner is aware of the risk of the conduct but is not trying to avoid it and is indifferent to whether harm results." *Id.* at ¶ 33, citing *Black's Law Dictionary* (8th Ed. 2004).

{¶31} The determination of whether an employee acted wantonly is generally a question of fact for the jury. *Whitley v. Progressive Preferred Ins. Co.*, 2009-Ohio-6933, ¶ 13 (1st Dist.). But where the record is devoid of evidence of wanton misconduct, summary judgment in favor of the political subdivision is appropriate. *Id.*

{¶32} After reviewing the record, we agree with the trial court that a genuine issue of material fact exists as to whether Officer Unwin's conduct was wanton. A reasonable jury could find that driving more than 50 m.p.h. over the speed limit at night in a construction zone, while responding to a call Officer Unwin may or may not have known had been downgraded in priority, constituted wanton misconduct.

{¶33} Appellants argue that because Officer Unwin activated his lights and sirens,[1] he exercised at least some degree of care. As a result, they contend that his conduct cannot constitute wanton misconduct under the statute, as the Ohio Supreme Court has defined wanton misconduct as "the failure to exercise *any* care." (Emphasis added.) *Anderson*, 2012-Ohio-5711, at ¶ 33, citing *Hawkins*, 50 Ohio St.2d at 114.

{¶34} The State in essence asks us to hold that, *as a matter of law*, no officer's driving can ever be deemed "wanton" so long as he puts on his lights and sirens. The Tenth District rejected the argument that lights and sirens alone constitute "any care" in *Hunter v. Columbus*, reasoning,

> Under that criteria [sic], you could drive an emergency vehicle in any manner that you please and not be guilty of wanton or reckless misconduct simply because you activated your siren and lights. Even looking where you are going or applying one's brakes meets the literalistic, but not legal, definition of "any care." If "any care" is construed in that fashion, the exception becomes virtually meaningless.

Hunter v. Columbus, 139 Ohio App.3d 962, 970 (10th Dist. 2000).

[1] Dunson argues that there is a factual dispute as to whether Officer Unwin's lights and sirens were on. But her support for this proposition is that another officer at the scene did not specifically reference Officer Unwin's lights or sirens in his report. An officer's mere lack of reference to the lights and siren is not enough to contradict the affirmative statement in the Hamilton County Investigation Report that the lights and sirens were in fact used. *Compare Byrd v. Kirby*, 2005-Ohio-1261, ¶ 24 (10th Dist.).

{¶35} We agree with the Tenth District's analysis. "Any care" cannot mean any action, no matter how futile. Otherwise, as the Tenth District noted, the exception would be virtually meaningless. Thus, an officer's use of lights and sirens must be considered in the context of all the facts. Here, the trial court properly concluded that the facts and circumstances—including Officer Unwin's choice to grossly exceed the speed limit at night in a construction zone—were sufficient to create a jury question as to whether Officer Unwin exercised any care toward Dunson under circumstances where there was a great probability that harm would result.

{¶36} We affirm the trial court's denial of summary judgment as to Springfield Township's entitlement to political subdivision immunity.

C. Individual Immunity

{¶37} Whether an employee of a political subdivision is liable in their individual capacity necessitates a different analysis than the three-tiered analysis outlined above. *See Rural Bldg. of Cincinnati L.L.C. v. Mercer*, 2017-Ohio-7226, ¶ 19 (1st Dist.).

{¶38} Under R.C. 2744.03(A), employees of political subdivisions "enjoy a presumption of immunity in connection with their performance of governmental or proprietary functions unless any of three exceptions apply." *Reynolds v. Hamilton Cty. Dev. Disabilities Servs.*, 2024-Ohio-83, ¶ 59 (1st Dist.), citing *Anderson*, 2012-Ohio-5711, at ¶ 21; *accord Morelia Group-DE, L.L.C. v. Weidman*, 2023-Ohio-386, ¶ 24 (1st Dist.). The three exceptions cover circumstances where "(1) the employee['s] acts or omissions were manifestly outside the scope of the employee's employment or official responsibilities; (2) the employee's acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner; [or] (3) civil liability is expressly imposed upon the employee by a section of the Revised Code." *Reynolds* at

¶ 21, citing R.C. 2744.03(A)(6)(a)-(c); *Weidman* at ¶ 25.

{¶39} Malicious purpose is "'the willful and intentional design to injure or harm another, generally seriously, through unlawful or unjustified conduct.'" *Mercer* at ¶ 21, quoting *Jones v. Norwood*, 2013-Ohio-350, ¶ 42 (1st Dist.). Bad faith is a "'"dishonest purpose, conscious wrongdoing, the breach of a known duty through some ulterior motive or ill will, . . . or an actual intent to mislead or deceive another."'" *Id.*, quoting *Jones* at ¶ 42.

{¶40} Wanton misconduct is defined the same here as in the above political subdivision immunity analysis. Finally, reckless conduct is "the conscious disregard of or indifference to a known or obvious risk of harm to another that is unreasonable under the circumstances and is substantially greater than negligent conduct." *Id.* at ¶ 22, citing *Anderson* at paragraph four of the syllabus.

{¶41} Appellants argue that the trial court erred by denying Chief Bley and Officer Unwin immunity in their individual capacities. Importantly, an analysis of whether an employee is immune in their individual capacity concerns only that employee's conduct. *See* R.C. 2744.03(6). Officer Unwin's actions on the night of the crash have no bearing on Chief Bley's entitlement to immunity.

{¶42} The parties agree that Chief Bley and Officer Unwin were acting within the scope of their employment with Springfield Township.

1. Chief Bley

{¶43} Appellants argue that because Chief Bley did not directly participate in any of the events preceding the crash, he did not engage in any conduct that could subject him to liability.

{¶44} Dunson argues that Chief Bley is liable in his individual capacity because he hired and retained Officer Unwin, despite evidence demonstrating that

Officer Unwin was unfit for duty. Dunson points to a single prior incident where Officer Unwin, while on duty, attempted to turn left from the right lane and collided with another vehicle. By not taking formal disciplinary action against Officer Unwin, Dunson argues that Chief Bley and Springfield Township police administration "effectively ratified Officer Unwin's reckless conduct and sent a clear message that policy violations and dangerous driving would not result in corrective action."

{¶45} We cannot agree. This single prior incident is insufficient to prove there was a "known or obvious risk" that Officer Unwin would grossly exceed the speed limit at night in a construction zone and flip his car onto that of an innocent bystander. Thus, even if we assume (without deciding) that Chief Bley's decision not to discipline Officer Unwin constituted a conscious disregard of or indifference to *some* level of risk, it could not have risen to the level of recklessness. Absent such a showing, Chief Bley cannot be held individually liable on this basis.

{¶46} The trial court, therefore, erred in denying summary judgment to Chief Bley in his individual capacity. We sustain the assignment of error in this respect and overrule the trial court's judgment as it relates to Chief's Bley's entitlement to immunity under R.C. 2744.03 for claims asserted against him in his individual capacity.

2. Officer Unwin

{¶47} If an employee acts "in bad faith, or in a wanton or reckless manner," then that employee can be liable in their individual capacity. R.C. 2744.03(A)(6)(b). As noted in Section II.B above, we hold that a genuine issue of fact exists as to whether Officer Unwin's conduct was wanton. Reckless conduct involves an even lower degree of culpability than wanton conduct. *See Anderson*, 2012-Ohio-5711, at ¶ 31-34.

{¶48} If the jury or trial court, as the factfinder, determines that Officer

Unwin's conduct on the night of March 31 was either wanton or reckless, then Officer Unwin could be found liable in his individual capacity. The trial court did not err in denying summary judgment as to Officer Unwin's immunity in his individual capacity. The assignment of error is sustained in part and overruled in part.

III. Conclusion

{¶49} For the foregoing reasons, the trial court's judgment is affirmed in part and reversed in part, and the cause is remanded. The trial court did not err in denying summary judgment to Springfield Township or Officer Unwin on the issue of immunity under R.C. Ch. 2744. The trial court did err, however, by failing to grant summary judgment for Chief Bley in his individual capacity on the immunity issue.

Judgment affirmed in part, reversed in part, and cause remanded.

ZAYAS, P.J., and **CROUSE, J.,** concur.