

Supreme Court of Florida

No. 65,523

BARBARA URSIN, Petitioner,

vs.

LAW ENFORCEMENT INSURANCE CO.,
etc., et al., Respondents.

[May 23, 1985]

OVERTON, J.

We approve the result of the decision of the Second District Court of Appeal reported as Ursin v. Law Enforcement Insurance Co., 450 So. 2d 1282 (Fla. 2d DCA 1984), on the authority of our decision in Reddish v. Smith, No. 63,950 (Fla. Apr. 4, 1985).

It is so ordered.

BOYD, C.J., ADKINS, ALDERMAN and McDONALD, JJ., Concur
SHAW, J., Dissents with an opinion
EHRlich, J., Dissents

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

SHAW, J., dissenting.

In this case a mentally disordered sex offender serving a twenty-year sentence for rape, kidnapping and robbery with eighteen years remaining on his sentence was placed in a trustee status in the county jail and assigned to the kitchen detail. The "trustee" simply walked away, kidnapped petitioner within minutes, and sexually molested her. If holding the government entity liable for negligence would "chill" this type of government discretion, as the majority fears, I express a strong belief that this is precisely what the people and the legislature intended when they waived sovereign immunity. I dissent for the reasons set forth in my dissents in Reddish v. Smith, No. 63, 950 (Fla. Apr. 4, 1985); Everton v. Willard, No. 63,440 (Fla. Apr. 4, 1985); and Duvall v. City of Cape Coral, No. 63,441 (Fla. Apr. 4, 1985).

Application for Review of the Decision of the District Court of
Appeal - Direct Conflict of Decisions

Second District - Case No. 83-938

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for Petitioner

Gayle Smith Swedmark of Madigan, Parker, Gatlin, Swedmark and
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