

Supreme Court of Florida

No. 85,636

LINDA MCGHEE,

Petitioner,

vs.

DEPARTMENT OF CORRECTIONS,

Respondent.

[January 11, 1996]

PER CURIAM.

We have for review the following question passed upon by the First District Court of Appeal and certified to be of great public importance:

WHETHER THE DEPARTMENT OF CORRECTIONS MAY BE HELD LIABLE AS A RESULT OF THE CRIMINAL ACTS OF AN ESCAPED PRISONER?

Department of Corrections v. McGhee, 653 So. 2d 1091, 1093 (Fla. 1st DCA 1995). We have jurisdiction. Art. V, § 3(b)(4), Fla. Const. We recently answered the identical question in Vann v. Department of Corrections, 662 So. 2d 339 (Fla. 1995), in the negative by holding the Department of Corrections "could not be held liable for the criminal acts of an escaped prisoner because no common law duty was owed by the department to protect a particular individual from such potential harm." Id. at 340. We likewise answer the certified question in this case in the negative and approve the district court's decision.

It is so ordered.

GRIMES, C.J., and OVERTON, SHAW, KOGAN, HARDING, WELLS and ANSTEAD, JJ., concur.

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

Application for Review of the Decision of the District Court of
Appeal - Certified Great Public Importance
First District - Case No. 93-3757

(Leon County)

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