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APPELLATE COURT FINDS POLICE OFFICER WHO SLIPPED ON ICE DURING TRAINING EXERCISE WAS NOT ENTITLED TO PSEBA BENEFITS

The Third District Appellate Court found in *Beckman v. City of Peoria*, that a police officer was not reasonably responding to an emergency when she injured herself during a training exercise. 2019 IL App (3d) 180467, ¶12. The Appellate Court found that when the plaintiff injured herself after slipping and falling on snow-and-ice covered pavement while executing a riot simulation, the context of that injury and the overall situation was not in response to an emergency: *Id*.

Beckman, a police officer, participated in mandatory riot training, which included a field simulation. *Id*. at ¶1. While in full riot gear and executing the simulation, Beckman slipped and fell on the snow-and-ice covered pavement and struck her head on the ground. *Id*. at ¶3. She continued participating in the training after the fall and sought medical treatment the next day. *Id*. She sought PSEBA benefits and alleged that she believed it was an emergency because she was treating the training as a "real life" emergency. *Id*. at ¶3, 12.

The Illinois Appellate Court looked at the Illinois Supreme Court case of *Gaffney v. Board of Trustees of Orland Fire Protection District,* 2012 IL 110012, for guidance which analyzed PSEBA eligibility for injuries received during a training exercise.

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Gaffney was a consolidated case involving two plaintiffs, Gaffney and Lemmenes, both of whom were injured during training exercises. *Id*. The Illinois Supreme Court granted PSEBA benefits to plaintiff Gaffney, whose training exercise involved a live fire. *Id*. at ¶¶65-67. During this training exercise, an unforeseen event occurred, the crew's hose became tangled, and plaintiff Gaffney was injured when he was trying to free the obstructed hose. *Id*. at ¶65. The Illinois Supreme Court found that the tangled hose placed the lives of the crew in imminent danger, as they were stranded on he stairs without visibility, without water to put out the live fire and with no option to end their participation; therefore, Gaffney had to take urgent action to untangle the hose line. *Id*. at ¶¶ 66-67. In contrast, the Illinois Supreme Court denied PSEBA benefits to plaintiff Lemmenes, whose training exercise did not involve a live fire, but rather masks were blacked out and firefighters were instructed to treat it like a real emergency while following a predetermined path. *Id*. at ¶¶74-79. Plaintiff Lemmenes was injured while executing the drill and carrying the "downed firefighter." *Id*. at ¶¶ 74-75. The Illinois Supreme Court found that no one was in imminent danger and no urgent response was required. *Id*.

The Appellate Court in *Beckman* found that this factual scenario compared to plaintiff Lemmenes in the *Gaffney* case and that the plaintiff's injury "was neither in response to an emergency, nor to circumstances 'reasonably believed' to be an emergency." 2019 IL App (3d) 180467 at ¶12. The Appellate Court emphasized that although the snow-and-ice covered pavement was unforeseen, it did not create an emergency because neither the ice, nor the riot simulation, created actual imminent danger to the plaintiff or her colleagues, requiring an urgent response. *Id*. The Appellate Court also rejected the plaintiff's argument that she subjectively believed the occurrence to be an emergency because she was instructed to treat it as though an emergency existed. *Id*. It emphasized that the circumstances and context of the riot simulation could not be "reasonably believed" to create an emergency and relied on the objective facts that no person was in imminent danger and no urgent response was required. *Id*. Finally, the Appellate Court pointed out that the plaintiff could have stopped participating in the training situation, and the ability to stop is not indicative of an emergency situation. *Id*.