

IN THE COURT OF APPEALS OF IOWA

No. 6-755 / 06-0436
Filed December 13, 2006

SARA OLSON,
Plaintiff-Appellant,

vs.

POLK COUNTY, IOWA,
Defendant-Appellee.

Appeal from the Iowa District Court for Dallas County, William H. Joy,
Judge.

Plaintiff Sara Olson appeals a district court ruling granting defendant Polk
County's motion for summary judgment and dismissing her petition. **AFFIRMED.**

Chad F. Knapp of LaMarca & Landry, P.C., Des Moines, for appellant.

John P. Sarcone, Polk County Attorney, and Roger Kuhle, Assistant Polk
County Attorney, Des Moines, for appellee.

Considered by Vogel, P.J., and Miller and Eisenhauer, JJ.

MILLER, J.

Sara Olson was injured when she applied the brakes on the vehicle she was driving, it slid on an icy roadway, and she collided with a parked truck. She sued Polk County, alleging negligence on the part of a Polk County Deputy Sheriff. Polk County sought summary judgment on several grounds. The district court granted the motion and dismissed Olson's petition based on the "emergency response" immunity provided by Iowa Code section 670.4(11) (2003). We affirm.

A municipality has immunity from tort claims "based upon or arising out of an act or omission in connection with an emergency response" Iowa Code § 670.4(11). Briefly summarized, the undisputed material facts are as follows. A Polk County deputy sheriff was dispatched to investigate two vehicles near each other in ditches. On his way he found another vehicle in a ditch. The roadway where the two reported vehicles were in ditches on opposite sides of the road was icy and very slick. Upon arriving at the scene the deputy called the dispatcher to have road crews salt the roadway and to contact the owners of one of the vehicles to have them come to the scene to fill out an accident report.

The deputy then saw two more vehicles have accidents, one sliding off the road and the other then sliding partially off the road. Thereafter until Olson's accident the deputy was engaged in parking his patrol vehicle so as to shield the vehicle that had slid partly off the road, attempting to clear the scene of the multiple accidents by having tow trucks remove vehicles, and investigating the accidents and working on reports concerning them. While he was so engaged, the owner who had been called by the dispatcher came to the scene in a truck,

parked on the roadway, and was engaged in either removing items from the vehicle or attempting to move the vehicle itself. Olson then arrived on the scene, was unable to stop her vehicle, slid on the icy roadway, and collided with the parked truck, sustaining personal injury.

In her petition Olson alleged the deputy was negligent in (1) instructing the vehicle owner to return to the scene to fill out a report, (2) failing to instruct the vehicle owner on where to park his truck, and (3) allowing the vehicle owner to park his vehicle in a lane of traffic. Olson claims the district court erred in granting summary judgment because (1) the deputy “was not making an emergency response,” and (2) the deputy’s alleged acts and omissions “were not done ‘in connection’ with an emergency response.”

The statute relied on by the district court in granting summary judgment “sweeps broadly, encompassing all ‘claim[s] based upon or arising out of an act or omission in connection with an emergency response’” *Cubit v. Mahaska County*, 677 N.W.2d 777, 782 (Iowa 2004) (quoting Iowa Code § 670.4(11)). “[I]n connection with’ is a broad term that conveys a legislative intent to cover a wide range of situations.” *Adams v. City of Des Moines*, 629 N.W.2d 367, 370 (Iowa 2001) (quoting *Kulish v. Ellsworth*, 566 N.W.2d 885, 891 (Iowa 1997)).

A close reading of section 670.4(11) . . . reveals that its focus is not limited to the emergency giving rise to the response, but to the response itself. In other words, it is the occurrence and continuation of an emergency response, rather than just an emergency, that extends the [municipality’s] immunity from liability. So, while there may be a factual question as to whether an emergency . . . still existed at the time [of the incident causing an injury], the real issue . . . is whether the [deputy’s] action was done “in connection with an emergency response.”

Adams, 629 N.W.2d at 370.

In a detailed, thorough, and well-reasoned ruling the district court concluded that under those undisputed facts that are material to the question, pursuant to Iowa Code section 670.4(11) Polk County is entitled to immunity from Olson's claim. We agree with the district court's reasoning and decision and therefore affirm. See Iowa Ct. R. 21.29.

AFFIRMED.