

JEPSEN'S LEGAL FICTION IN CHIMP CASE APPEAL

Marbury v. Madison, old established case law states; "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury"...that an act of the legislature, repugnant to the constitution, is void. Connecticut's Constitution Article 1., Sec. 1. states "All men when they form a social compact, are equal in rights; and no man or set of men are entitled to exclusive public emoluments or privileges from the community".

Mr. Jepsen's argument; "The legislature enacts licensing, permitting and other regulatory laws to serve the general good, not to open the state to a lawsuit when an injured citizen believes a state worker failed to properly enforce the law.", effectively announces that state employees are granted "exclusive public emoluments or privileges", forbidden under Connecticut Constitution Article 1. We pay our public servants excessive salaries, health insurance, pensions, and longevity payments, but now we have to except the fact they are entitled, under George Jepsen's faulty legal theories, to exclusive public emoluments essentially establishing them as prince and princess of the king who can do no wrong; such they should not be held legally liable, as private citizen can for negligence.

The Attorney General's office with the assistance of the Claims Commissioner protects state employees through a long history of denial of legitimate legal claims, based upon faulty legal argument and analysis, to the detriment of the public.

The State of Connecticut's Constitution Article First, 10, states; "shall have remedy by due course of law, and right and justice administered without sale, denial or delay", is subverted by the Attorney General's legal filings denying legal claims without proper legal basis. A claimant's request for monetary compensation is unnecessarily prolonged by sycophant state lawyers seeking to please their employer, (Connecticut), which administers their wages. When granted permission for suit against the State by the legislature, the litigant is required to proceed not before a civil jury, but only a judge, whose wages are also provided by the State of Connecticut.

Prince and princesses are liable under Connecticut General Statutes § 4-165, which makes clear that the remedy available to [individuals] who have suffered harm from the negligent actions of a state employee who acted in the scope of his or her employment must bring a claim against the state under...chapter 53, citing *Chief Information Officer Et Al. v. Computers Plus Centers Et Al*; Conn Supra (19029-31) (2013). They are afforded no protection by any immunity analysis if found under the federal caselaw standard of *Harlow v. Fitzgerald*, "plainly incompetent or knowingly break the law."

In the case of Ms. Nash, "One exception is when it would be apparent to the public officer that his failure to act would be likely to subject an identifiable person to imminent harm." *Sestito v. Groton*, 178 Conn. 520, 423 A.2d 165 (1979). *Sestito* found " that liability could be established, under sufficiently provocative circumstances, without any prior contact."

When the State DEEP employee's had constructive knowledge in 2008 producing a document claiming *Travis* was " an accident waiting to happen" is it any different than the case of *Wright v. Brown* 167 Conn. 464 (1975), failure to quarantine dog was ministerial act. It's clear the State did perform a ministerial act by removing a gibbon ape in 2008 charging its owner with illegal possession of a primate. The question begs why was a different ministerial standard applied to Sandra Herold's ape, given the concerns of a DEEP employee? The Attorney General fails to acknowledge that when the State takes any form of control through licensing, permitting and other regulatory laws, as stated in *Adams v. State*, 555 P. 2D 235, 241-42 (Alaska 1976), the state improperly asserts

that it has no obligation to require others to obey the law. *Adams* found; "Under the circumstances we have no difficulty in determining that the state fire officials had a duty to proceed further with regard to the recognized hazards. We do not presume to say what measures would have been reasonable, but from the facts as presented to us we must conclude that by the state's inaction the duty was breached.

Failure to perform ministerial acts attaches liability under the public duty doctrine outlined within the framework of *Shore*, the court looks to see whether there is a public or private duty alleged by the plaintiff. If a public duty exists, an official can be liable only if the act complained of is a ministerial act or one of the narrow exceptions to discretionary acts applies. *Shore v. Stonington*, 187 Conn. 147, 444 A.2d 1379 (1982). "[W]here the duty of the public official to act is not ministerial but instead involves the exercise of discretion, the negligent failure to act will not subject the public official to liability unless the duty to act is clear and unequivocal." One exception is when "it would be apparent to the public officer that his failure to act would be likely to subject an identifiable person to imminent harm." see, e.g., ("*an accident waiting to happen*"), and (sufficiently provocative circumstances, without any prior contact) *Sestito v. Groton, supra*, 528.

Mr. Jepsen made three points in his Hartford Courant Op. Ed., Legislators Should Deny Chimp Case Appeal, > if a driver fails to obey a traffic signal is the state liable, > if a polluter fails to follow regulations governing hazardous waste is the state liable, > and if a state licensed physician causes injury, should the state be liable for the damages? The simple answer is yes, if there was knowledge prior to the potential injury, by an official with a duty related to the matter, and by inaction the duty was breached. Yes is the correct legal finding, if after discovery motions or at trial, evidence reveals negligence liability, then it is calculated related to extent of negligence on the part of a public official.

George Jepsen, people who except public employment have a duty to the public regardless of what you or other individual's improperly represent, that no duty to the public exists. The Attorney General actually claimed in my lawsuit, "Contrary to the Plaintiffs base assertions, neither the Commission, the office of the Chief's State Attorney, nor the office of the Attorney General (OAG) owe the Plaintiff any duty to take action against certain state marshals, including bringing civil or criminal actions against them". The Attorney General should examine the laws governing State's Attorney, C.G.S. § 51-277(b) and 51-279(b) or Attorney General responsibilities under C.G.S. § 3-125, and C.G.S. § 3-129(b), suppression of criminally operated businesses other than corporations, before making frivolous legal claims in court.

With the SEBAC lawsuit lasting 10 years, my own 7 year's, or Ms. Nash current claim, the Claims Commissioner and the Attorney General's legal positions have been devoid of fact or law which interfere with the public's, United States Constitution 14th Amendment Due Process Clause or Connecticut Constitution Article 1.

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The writer overturned his Claims Commissioner finding before the Legislature in 2011.