

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

FRANCO G. FORGIONE,  
Plaintiff

vs.

JOHN G. HECK and THE CITY OF  
WILLIAMSPORT,  
Defendant

: IN THE COURT OF COMMON PLEAS OF  
: LYCOMING COUNTY, PENNSYLVANIA

:

: NO. 97-01,165

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:

:

: 1925(a) OPINION

**OPINION IN SUPPORT OF THE ORDER OF DECEMBER 15, 1998 IN COMPLIANCE  
WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE**

The Appellant in the above-captioned action has filed a “Concise Statement of Matters Complained of on Appeal” which, in the opinion of this Court is neither concise nor a statement of appealable issues but rather takes the form of a legal brief which essentially reargues *in toto* the issues presented to this Court on the Motion for Summary Judgment. It is possible that the “Statement” may be read as a whole to assert that the Court has erred in concluding that “flight,” as that term is employed in the relevant exception to the Political Subdivision Tort Claims Act, 42 Pa. C.S. §8541 *et seq.*, must of necessity be a factual issue for the jury, which is material, and as to which reasonable minds could differ in its interpretation.

As set forth in this Court’s Opinion in Support of the order of December 15, 1998, which Opinion was filed December 21, 1998, and which Opinion the Court here incorporates in its entirety in support of our Order, we concluded that the overall clear legislative intention in enacting the relevant language would not permit the issue whether the Plaintiff in the instant case was “in flight or fleeing apprehension . . . by a police officer” to be submitted to a jury, but rather, that on the instant facts that issue

was properly decided as a matter of law. There is no dispute as to the material fact in this case that the Plaintiff chose of his own volition to flee from the officer, Defendant John G. Heck.

We had also concluded that an overriding public policy fostering public order and the minimization of risks to the Plaintiff, the Officer or other innocent bystanders who might be harmed in a chase compelled the conclusion that the Legislature's intent was that such individuals who chose to flee the police, whether rightfully or wrongfully, forfeit their right to maintain a suit for civil damages if an accident occurs as a result of the flight. The Court also specifically noted in footnote 5 of our Opinion that there could be certain egregious circumstances, in which a citizen would be justified in fleeing a police officer, but that such circumstances clearly were not present in this case.

Accordingly, the Court believes that the instant appeal is without merit and that the Order should be affirmed.

BY THE COURT,

Dated: February 10, 1999

William S. Kieser, Judge

cc: Court Administrator  
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Robert A. Seiferth, Esquire  
Judges  
Leo F. Klementovich, Esquire  
Gary L. Weber, Esquire (Lycoming Reporter)