Appeal from a grant of Motion for Summary Judgment in trip and fall matter (governmental immunity)

The next case is Dreher v. the Williamsport Parking Authority and River Valley Transit.

This is an interesting demonstration of the scope and effect of governmental immunity, and in part, is best understood with a sense of the history with regard to immunity. Before 1970, the early 70s, the concept of immunity, charitable, governmental, sovereign immunities, were all believed to be founded in common law. The Supreme Court was moving away from that initially with elimination of charitable immunity, then elimination of governmental immunity, and finally, in 1977-78 the elimination of sovereign immunity.

What this did was give individuals who had been injured in the course of ordinary events, basic negligence concepts, could recover where the tort-feaser was, for example, a charitable institute or a governmental entity.

This represented a major change in the way government was organized, the way government was structured, because now it stood the potential, it was facing the potential, for significant losses if it was in fact negligent in the care of public property. This led to the adoption of several statutes which continued governmental immunity or eventually, sovereign immunity, but with major exceptions. In particular, for local governments there was a concern that if there was no immunity, the municipality, the local government would be liable for injuries that occurred when the government wasn't even aware that they existed, because municipalities are very large, and hazards could arise before the municipality had an opportunity to discover the issue and correct it. So one of the exceptions in what is popularly called the political subdivision tort claims act, although that actual act was repealed and is now simply similar provisions exist in the judicial code. One of the exceptions to the existence of governmental immunity, which would mean that one of the areas in which a suit could be brought against a municipality, and the municipality could not claim immunity, was what is called the sidewalk exception.

In the case that the argument is being presented for this case, is one in which the plaintiff, now the appellant, Ms. Dreher, was injured when she left a parking garage that was owned by the municipality, by the Williamsport Parking Authority, but managed and run by River Valley Transit. River Valley Transit was joined as an additional defendant because the initial suit had Ms. Dreher suing only the Parking Authority. With two defendants, the parking authority and the management company – River Valley, River Valley filed a motion for summary judgment, arguing that while there was no question that Ms. Dreher had fallen on the sidewalk outside the parking authority, and there is similarly no question, I guess, that the sidewalk was constructed of pavers and that as

temperatures, as ground froze and thawed, that these pavers could become somewhat uneven, such that there was between a quarter and a half inch difference between the surface of one paver and the surface of another paver. According to Ms. Dreher, it was on this inconsistent surface, this difference between where the one paver was and the slightly higher paver adjacent to it, that she fell and was injured.

The question then becomes, “Did the municipality, the parking authority, and its manager, River Valley, did they get adequate notice of the change, of the dangerous condition that existed in the sidewalk outside the parking garage?” The parking garage is located across the street from one of the City Government buildings, so it’s not a question of it being out in a rural area and not likely observed, but rather, a question that under the sidewalk exceptions, a dangerous condition of sidewalks within the rights of ways of streets owned by the local agency, and there is no question here that this was a public sidewalk, except that the claimant, to recover, must establish that the dangerous condition created a reasonably foreseeable risk of injury which was incurred and that the local agency had actual noticed or could reasonably be charged with notice under the circumstances, of the dangerous condition at a sufficient time prior to the event to have taken measures to protect against the dangerous condition. So there doesn’t appear to be any dispute in this case that Ms. Dreher did fall, she was injured. The question is, can the city, can the parking authority or its management company, be held liable if Ms. Dreher cannot prove that the municipality had adequate notice and an opportunity to correct the condition. In this case, she is arguing more that it was obvious to any viewer, and since the building was so close to a city building, clearly there was notice just as a very practical nature.

The trial judge disagreed and concluded that in fact, this was something where the hazard was not so obvious and the time in which it arose did not establish that there was adequate time for the parking authority or its management company to correct the hazardous condition. The motion for summary judgment was granted and the case was dismissed as to both the management company and its employer, the Parking Authority.

At this point, while Ms. Dreher has been injured, the trial court found that she had failed to establish that the municipality could have eliminated that hazard, that it had adequate notice, so much of the argument you are going to be hearing here is to exactly what is required to establish that the parking authority should/could reasonably be assumed to know of this hazard and at a time where it could have made an effort to correct the condition. Part of what you run into here is simply that if the paver shifted overnight because of freezing, then it’s probably not reasonable to assume that the parking authority could have corrected the paver the following morning or after the frost thawed.

On the other hand, if Ms. Dreher had been able to establish that this sidewalk, in fact, had had uneven pavers, and apparently there was some evidence from different people

that it was an ongoing problem, or that somehow these things needed to be reworked, they needed to be reset, that's the kind of evidence she had offered, but the trial judge found that this did not present a material issue of fact, because summary judgment is only appropriate where the party, the moving party, can establish that there is only a question of law, that is, there is no material fact in dispute, that judgment can be entered as a matter of law on behalf of the, and all inferences are drawn, in favor of the non-moving party. It is a relatively high burden, but the trial court found that the management company and consequently the Parking Authority had established that as a matter of law, Ms. Dreher was not entitled to bring suit or continue her suit against this municipal entity because it did not fit within the exception to governmental immunity.

With that as background, you can listen to the arguments.