

## Troy State Officials Protected by Qualified Immunity

Tragically, Brandy Hobson, age 17, was murdered in her dormitory room at Troy State University (“TSU”) in 2001 during her first semester in school. Her parents, as the administrators of her estate (“plaintiffs”), sued TSU, the Trustees of its Board in their official capacities, and twelve officials of TSU in their official and individual capacities. The suit was brought in federal district court under 42 U.S.C. § 1983 for deprivation of the parents’ and Hobson’s constitutional rights to substantive due process under the Fourteenth Amendment. Substantive due process is violated when a state official injures an individual by means of actions that are extremely arbitrary or that are “conscience-shocking.” The district court dismissed all of the claims against all of the defendants.

On appeal, the plaintiffs contested only the dismissal of the § 1983 claims against the TSU officials in their individual capacities. The district court had dismissed these claims based on a finding that the defendants were entitled to a “qualified immunity.” This immunity provides complete protection from liability for governmental officials sued in their individual capacities as long as their conduct does not violate clearly established statutory or constitutional rights known to a reasonable person. Its purpose is to “allow government officials to carry out their discretionary duties without the fear of personal liability or harassing litigation, protecting from suit all but the plainly incompetent or one who is knowingly violating the federal law.”

In order to gain the protection of qualified immunity, a governmental official has the burden of proving that he was acting within the scope of his discretionary authority when the allegedly wrongful acts occurred. If the official meets this burden, the burden shifts to the plaintiff under a two-prong test to prove that qualified immunity is not warranted. To do so, the plaintiff has the burden to show (1) that the official’s conduct violated a constitutional right and (2) that this right was clearly established.

In affirming the district court’s decision, the Eleventh Circuit Court of Appeals first noted that the plaintiffs did not contend the TSU officials were acting outside the scope of their discretionary duties. As a result, the case turned on whether the plaintiffs could meet the two-prong test set out above. In their appeal, the plaintiffs argued that, by requiring all students under 19 to live on-campus, TSU assumed a duty to provide adequate security for its on-campus students. A “special relationship” between the TSU officials and those students was created that, under the Due Process Clause of the Fourteenth Amendment, gave rise to a “clearly established” duty to protect those students from harm by third parties. The plaintiffs claimed the “deliberate indifference” of TSU officials to insufficient security measures violated this duty.

The Court of Appeals rejected the argument that the substantive due process clause of the Fourteenth Amendment imposed a requirement on States to protect their citizens’ life, liberty, or property against invasion by private actors. Rather than establishing a guarantee of certain minimal levels of safety and security, that clause is phrased as a limitation on the power of a State to act. The plaintiffs had simply not alleged conduct by TSU officials that was so egregious as to transgress this limitation. Moreover, the district court had correctly held that, even if the plaintiffs had identified a valid substantive due process claim (to satisfy the “first prong”), they

were not able to show that the law regarding this claim was “clearly established” (to satisfy the “second prong”). The appellate court thus upheld the district court’s entry of summary judgment in favor of the defendants. *Griffin v. Troy State University*, No. 04-15055 (11th Cir. Apr. 20, 2005).

One can certainly sympathize with these parents in their loss. The case is a reminder, however, of an important defense available to University officials, in suits claiming personal liability, when their actions were within the scope of their discretionary authority and did not violate clearly established statutory or constitutional rights.