

First Place Winner

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Topic: Who is liable under the Tort Laws of NM for the deaths of two teenagers and the injuries of two others involved in a car accident? Can Manuel Ortiz an illegal alien be held criminally liable in the state of N.M. for the deaths and injuries of the teenagers?

Facts:

Manuel Ortiz, a Mexican citizen in the United States illegally, and employee of Fielding Limousine Service, consumed alcohol and negligently drove a motor vehicle while impaired carrying four passengers as an employee. The four passengers were headed for their senior prom in Gold City, N.M. While in operation of the vehicle, Ortiz recklessly drove 20 miles over the speed limit in weather that consisted of scattered showers and low patches of low lying fog. Ortiz entered a patch of fog driving down the crest of a hill at 70 mph; due to his intoxicated state and weather conditions, Ortiz did not see the Tractor Trailer pulling in his line at the bottom intersection and collided with the Trailer. Tom Bernard and Jeremy Deets both passengers in the vehicle were killed instantly. Samantha Cruthers and Marcia Waters, also passengers in the vehicle were critically injured, and the injuries they sustained resulted in costly medical bills. Manuel Ortiz escaped with no injuries and fled the scene. Ortiz was later apprehended in the state of Colorado while traveling. Ortiz was employed by Fielding Limousine company three weeks before the incident. Ortiz falsified information and presented the secretary at Fielding's limousine Service with what appeared to be a valid driver's license. The license was false and did not contain the N.M. water seal mark. No questions were asked by the secretary and no background check done by the business. Ortiz had previously entered the country illegally and was deported two years ago.

Issues:

- I. Who can be held liable for the deaths of Tom Bernard, Jeremy Deets, and the resulting medical bills of Samantha Cruthers and Marcia Waters under the N.M. Tort laws specifically N.M. Stat. Ann. § 41-21-1 as interpreted by the NM Appellate Courts ?
- II. Can Manuel Ortiz, who is not a Citizen of the United States, be held criminally liable for the deaths of Tom Bernard, Jeremy Deets, and the resulting injuries of Samantha Cruthers and Marcia Waters under United States Federal law and/or NM State law?

Conclusion:

- I. Manuel Ortiz, and Fielding Limousine Company, can be held civilly liable for the deaths of Tom Bernard, Jeremy Deets, and the injuries of Samantha Cruthers and Marcia Waters.
- II. Manuel Ortiz can be held criminally responsible for the deaths of Tom Bernard, Jeremy Deets, and the injuries of Samantha Cruthers and Marcia Waters.

Reasoning:

Under N.M. Stat. Ann. § 41-2-1 1978 Statutory Liability was not limited to persons who were citizens of the united states as established in Torres v. Sierra 89 N.M. 441, 553 P.2d 620 (1976). In Torres the Court dealt with Torres, an illegal Immigrant who was killed by another driver driving down the wrong way of the highway. Torres was a passenger in the car and is entitled to the same rights in collecting damages as any other citizen of the United States which is what the representative of Torres sought to recover. The courts found "Statutory Liability in damages for death by wrongful act is broad: it does not limit liability to person's who

citizens of the United States. Section 22-20-1, N.M. Stat. Ann. 1953 (Vol. 5) reads: Whenever the death of a person shall be caused by the wrongful act, neglect or default of another...and the act, or neglect, or default, is such as would, death not ensued, have entitled the party injured to maintain and recover damages respectively thereof.” It was established in Torres that an illegal alien could be held responsible and since he could be liable then he was also entitled to the rights to hold others responsible for liability under the statute. Manuel Ortiz’s status as an illegal alien does not have any effect on holding him responsible for the deaths and injuries of the four teenagers. Manuel Ortiz should be liable since he drove recklessly by speeding and was impaired at the time. His negligence gravely injured two teenagers and left two others dead. They were just beginning to live their lives and deserve justice.

As for the victims who did survive the accident, they can bring suit for damages under the NM tort Law. The corporation was responsible for their safety while in the corporation’s vehicle. Fielding’s Limousine Service is liable under the same statute. If the deaths had not ensued the victims would have been able to bring suit for damages can under N.M. Tort Laws.

Gerald Fielding as the Owner of Fielding Limousine Service cannot be held liable because as held in Equitable Gen. Ins. Co. v. Silva, 99 N.M. 371, 658 P. Mr. Fielding was under the assumption that Mr. Ortiz was in possession of a valid drivers license. The statute requires that Mr. Fielding have “known” or “knowingly permit(ted)” Manuel Ortiz to drive one of the company vehicles with out a license. The case also makes notes that under N.M. Stat. Ann. § 66-5-5 does not prohibit illegal aliens from obtaining a driver’s license. In the case mentioned above Manchaca lent his car to an illegal alien, Silva, who appeared to have a valid driver’s license. He authorized use for thirty minutes and only to a specified location. The driver of the vehicle went beyond the authorized use and caused a car accident. The Illegal alien was deported and suit was brought against Menchaca. The court found that Menchaca was not under any duty to validate and confirm the driver had a driver’s license. Therefore Silva lacking authorization to drive a motor vehicle under the same statute became an unauthorized driver under N.M. Stat. §66-5-41 and released Gerald Fielding from any liability.

Under the law Manuel Ortiz, and Fielding Limousine Company, are civilly liable for the deaths of Tom Bernard, Jeremy Deets, and the injuries of Samantha Cruthers and Marcia Waters under the wrongful death liability statute. Since Mr. Fielding was not aware of that Manuel Ortiz did not have a valid driver’s license and there is no evidence to support that Gerald Fielding knew Ortiz was not in the country legally, he cannot be held liable. Its’ a tragedy what happened, the past can’t be changed, but the law provides an opportunity for those who have been wronged to find justice. In these cases specifically justice is supposed to hurt the wrongdoers. Therefore based on the laws and case law the court should find both Manuel Ortiz and Fielding Limousine company held liable for damages in this case.

II Under federal law, specifically 8 U.S.C § 1326(a), an illegal alien who has been removed from the country can be held criminally liable. There is however limitations as to how much prison time he can face before being deported back to their home country. If he were to be convicted of crimes the statutory maximum for committing a felony is 20 years in prison under the code.

This statute in federal law clearly establishes that Manuel Ortiz’s status as an illegal alien does not keep him from being held criminally liable. Manuel Ortiz committed many crimes in the process of committing homicide Under N.M. Stat. Ann. Section § 66-8-101 (D), “ anyone who commits homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or while under the influence of any drug or while violating Section N.M. Stat. Ann. § 66-8-113 NMSA 1978, is guilty of a third degree felony.” Manuel Ortiz should be charged with two counts of Vehicular homicide which is a third degree felony for the deaths of Tom Barnard, and Jeremy Deets. He should also be charged with to counts of great bodily harm with a vehicle for the injuries sustained by Samantha Cruthers and Marcia waters. The evidence is overwhelmingly in the favor of the state.