

Fifth Circuit Court of Appeal
State of Louisiana

No. 25-C-603

LASHANDA L. HILLARD

versus

CITY OF KENNER

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE TWENTY-FOURTH JUDICIAL
DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 856-839, DIVISION "C"
HONORABLE JUNE B. DARENSBURG, JUDGE PRESIDING

April 15, 2026

TIMOTHY S. MARCEL
JUDGE

Panel composed of Judges Susan M. Chehardy,
Jude G. Gravois, and Timothy S. Marcel

WRIT GRANTED; REVERSED; JUDGMENT RENDERED

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SMC
JGG

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MARCEL, J.

This case arises from a traffic accident in which the driver of a Toyota Camry collided with a City of Kenner fire truck responding to an emergency. In a November 20, 2025 judgment, the trial court denied the City's motion for summary judgment wherein it claims immunity under the Louisiana Emergency Responder Statute, La. R.S. 32:24, on the basis that there are genuine issues of material fact. Upon review of the writ application, this Court held a hearing pursuant to La. C.C.P. art. 966(H). For the following reasons, we grant this writ application, reverse the decision of the trial court, and dismiss plaintiff's claims.

BACKGROUND

The following facts are undisputed: at 11:31 AM on June 8, 2024, the Kenner Fire Department received a call about a fire in front of a building located around the 2800 block of Augusta Street. Fire Engine 388 was immediately dispatched with three firefighters, including the driver, Anthony Prima, who turned on the firetruck's electronic siren and emergency lights immediately upon leaving the station. The accident at issue occurred on that clear, sunny day shortly thereafter at approximately 11:44 AM at the intersection of Veterans Boulevard and Loyola Drive. As Engine 388 proceeded through a red light, and while turning left onto Veterans Boulevard, a Toyota Camry driven by plaintiff LaShanda Hillard (travelling alone without passengers) ran into the side of the passenger side of the firetruck. The parties were able to drive their respective vehicles to a nearby lot where they were met by the Kenner Police Department, who took statements and completed a crash report. Neither party reported any injuries at that time. Ms. Hillard stated at that time, and again later in her deposition, that she heard the firetruck's sirens prior to the accident, but that she proceeded through the intersection because the light was green and she did not see the firetruck.

Ms. Hillard filed a petition for damages against the City of Kenner in which she argued that the driver of the truck, Mr. Prima, and the City were at fault for the accident and the resulting damages to her vehicle and her subsequent medical injuries. In its answer, the City raised the defense of qualified statutory immunity under the Louisiana Emergency Responder Statute, La. R.S. 32:24. Under this statute, a plaintiff must show that the operator of the emergency vehicle was acting with reckless disregard or in a grossly negligent manner provided that the emergency driver can show that he was operating his vehicle in the manner required by the statute. In particular, La. R.S. 32:24 subsections A, B, and C require the driver to show: (A) that the driver was responding to an emergency call; (B) that a driver proceeding past a stop signal did so only after slowing down or stopping as may be required for safe operation; and (C) that the driver was making use of audible or visual signals sufficient to warn motorists of the vehicle's approach. If any of these elements are not met, then the emergency driver may be held to the ordinary negligence standard.

The City filed an initial motion for summary judgment that was not heard because discovery was still on going. Following the completion of discovery, the City filed a re-urged motion for summary judgment wherein it argued that Ms. Hillard would be unable to meet her burden on essential elements of her claim at trial and therefore the City was entitled to summary judgment as a matter of law. Exhibits attached to this motion included the complete depositions of Mr. Prima and Ms. Hillard, plaintiff's written responses to interrogatories and requests for production, an affidavit from Mr. Prima, a Kenner Fire Department Supervisor's Incident Report, dispatch records, a Louisiana Uniform Crash Report from the Kenner Police Department, photos of the intersection and both vehicles post-accident, and body camera footage of Kenner Police Department's on-scene interview with Ms. Hillard.

In response to the motion, Ms. Hillard provided an opposition in which she argued there remained genuine issues of material fact that precluded summary judgment. Submitted in support of her opposition are the same exhibits as those introduced by the City, with the addition of the City's answers to her interrogatories and requests for production.

At the trial on the motion, Ms. Hillard argued that there remained genuine issues of material fact as to whether the City could show the required elements of La. R.S. 32:24 had been met. In particular, she argued that there was a genuine issue of material fact as to whether Mr. Prima was making use of audible or visual signals sufficient to warn motorists of the firetruck's approach (subsection C) and whether Mr. Prima properly slowed down before proceeding through the intersection (as required under subsection B). The trial court was persuaded by these arguments and denied the City's motion. The City's timely application for supervisory writs followed.

In its writ, the City argues that the trial court erred in denying the motion for summary judgment because the uncontradicted evidence shows that Mr. Prima complied with all elements of the Emergency Responder Statute and that Ms. Hillard would be unable to show that defendants were acting in a grossly negligent manner. We agree.

DISCUSSION

Appellate courts review summary judgments *de novo* using the same criteria that govern the trial court's determination of whether summary judgment is appropriate. *Wiebelt v. Stonebridge Manor New Orleans, LLC*, 25-69, p. 2 (La. App. 5 Cir. 9/24/25), 423 So.3d 196, 199. After an opportunity for adequate discovery, a motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law. La.

C.C.P. art. 966. The burden of proof rests with the mover. *Id.* The burden is on the adverse party to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law. *Id.* When a motion for summary judgment is made and supported, an adverse party may not rest on mere allegations or denials of his pleadings, but his response, accompanied by affidavits or other admissible summary judgment evidence, must set forth specific facts demonstrating the existence of a genuine issue of material fact. La. C.C.P. art. 967. The decision as to the propriety of a grant of a motion for summary judgment must be made with reference to the substantive law applicable to the case. *Mariana v. Magnolia Auto Transp., LLC*, 21-447, p. 6 (La. App. 5 Cir. 5/26/22), 341 So.3d 1281, 1287

Louisiana's Emergency Responder Statute, La. R.S. 32:24, provides a qualified statutory immunity from liability to the drivers of emergency vehicles under specific circumstances. *Rabalais v. Nash*, 06-0999, p. 13 (La. 3/9/07), 952 So.2d 653, 662. Per the statute, the driver of an authorized emergency vehicle, (A) when responding to a fire alarm, may proceed past a stop signal, but only after (B) slowing down or stopping as may be necessary for safe operation. La. R.S. 32:24. This exception to the usual traffic laws is granted to an authorized emergency vehicle only when (C) the vehicle is making use of audible or visual signals sufficient to warn motorists of their approach. *Id.* The privileges granted in La. R.S. 32:24 do not relieve the driver of an authorized vehicle from the duty to drive with due regard for the safety of all persons, nor shall the provisions of the statute protect the driver from the consequences of his reckless disregard for the safety of others. *Id.* Only when the emergency vehicle driver's actions satisfy all three elements of the statute will he be held liable for his reckless disregard or gross negligence of the safety of others. *Rabalais, supra; Goutierrez v. St. Paul Ins. Co.*,

13-614, p. 7 (La. App. 5 Cir. 2/26/14), 136 So.3d 322, 325, *writ denied*, 2014-0649 (La. 4/25/14), 138 So.3d 1234.

In this case, the burden is on the City to show the applicability of the affirmative defense of qualified statutory immunity, or, in other words, that all of the elements of the Emergency Responder Statute have been satisfied, thereby placing a heightened burden on the plaintiff to show that Mr. Prima acted with reckless disregard or gross negligence, and then showing that plaintiff will be unable to meet that heightened burden.

Of the three requirements of La. R.S. 32:24 that must be satisfied, the first, whether the driver was responding to an emergency call, (A), is undisputed by the parties. This was clearly shown by the dispatch records from the day of the accident.

Turning next to the requirement that the driver be making use of audible or visual signals sufficient to warn motorists of the emergency vehicle's approach, (C), Ms. Hillard argues that she did not see the truck or emergency lights until moments before the accident, and disputes whether Mr. Prima had activated the firetruck's mechanical siren or air horn prior to the accident. According to Ms. Hillard, this is a genuine issue of material fact that should preclude granting summary judgment. However, Ms. Hillard stated in her deposition, and was captured by the police body camera as saying, that she heard the firetruck's siren when approaching the intersection and this caused her to take her foot off the gas prior to approaching. The facts that Ms. Hillard did not see the emergency lights or may have heard only the sirens but not the air horn are ultimately non-dispositive in light of the fact that she admits to hearing the siren prior to the accident and it was sufficient to warn her of the vehicle's approach such that she took her foot off the gas. Defendants have shown that this element of the statute has been met.

The last essential element enumerated in the Emergency Responder Statute, (B), requires that a driver who proceeds past a stop signal does so only after slowing down or stopping as may be necessary for safe operation. *See Muhleisen v. Bienvenu*, 20-430, p. 8 (La. App. 5 Cir. 6/30/21), 325 So.3d 607, 613. Ms. Hillard argues that there is a genuine issue of material fact as to whether Mr. Prima sufficiently slowed down when turning through the intersection. In particular, she points to what she calls “inconsistencies” in Mr. Prima’s deposition testimony as evidence that he did not slow down in a manner necessary for safe operation. In his deposition testimony, Mr. Prima stated that, in the approximately one second he had between seeing Ms. Hillard’s Camry (10 meters away) and her collision with the truck, he did not hit the brakes, both because he was in a large truck carrying 750 gallons of water that made evasive maneuvers difficult and, also, because he thought it better to try to avoid her car by proceeding forward. According to Ms. Hillard, Mr. Prima’s statements are evidence that he saw Ms. Hillard’s vehicle prior to the accident and made a choice to proceed rather than yield to the oncoming driver. In Ms. Hillard’s view, this evidence should be sufficient to create a genuine issue of material fact as to whether Mr. Prima properly slowed down prior to turning at the intersection as required.

Ms. Hillard’s arguments appear to misconstrue Mr. Prima’s testimony. In his deposition and in his written affidavit and other statements, Mr. Prima consistently testified that he slowed the firetruck at the intersection before proceeding through the red light. The implication in Ms. Hillard’s argument that Mr. Prima saw her vehicle and then decided to proceed through the intersection rather than brake and yield requires one to disregard Mr. Prima’s other statements about seeing her only one second before the impact and having no other preventative measures that he could have safely taken. In addition to this reading of inconsistency where there appears to be none, Ms. Hillard has provided no

evidence to counter Mr. Prima's testimony of slowing the firetruck before proceeding through the intersection. Importantly, the evidence in the record suggests that she will not be able to provide such evidence. In her deposition, she states that, because of a wall or concrete barrier obstructing her vision, she did not see the firetruck until just before impact when it was already turning onto Veterans. ("When I saw him, he was moving past me, so I wouldn't know if he stopped at the light..."). She stated that she could not testify as to whether the firetruck stopped or slowed down at the intersection light.

As evidenced by Ms. Hillard's answers to the interrogatories and requests for production, there is no other evidence that would contradict Mr. Prima's statement that he slowed the truck: no eyewitnesses (or at least not any identified by plaintiff), no video footage, nor any other evidence supports plaintiff's assertion that the truck did not slow down. Defendants have met their burden of showing that this element of the statute has been met, and the evidence provided by Ms. Hillard does not create a genuine issue of material fact to the contrary.

Having determined that there is no genuine issue of material fact as to satisfaction of the elements of La. R.S. 32:24 and that qualified statutory immunity is applicable, we next consider whether Ms. Hillard will be able to show that Mr. Prima's actions were in reckless disregard for the safety of others. "Reckless disregard" is in effect "gross negligence." *Rablais*, 952 So.2d at 658. Louisiana courts have defined "gross negligence" as "want of even slight care and diligence" and the "want of that diligence which even careless men are accustomed to exercise." *Garcia v. City of Kenner*, 20-378, p. 8 (La. App. 5 Cir. 12/22/21), 334 So.3d 1004, 1011, *writ denied*, 22-00273 (La. 4/12/22), 336 So.3d 87. We find no evidence in the record that Mr. Prima acted without due regard for the safety of others.

Upon *de novo* review, we find that the evidence in the record supports the City's assertion that the elements required for application of La. R.S. 32:24 have been met, and that there is no evidence to support Ms. Hillard's claim that Mr. Prima was operating the firetruck with reckless disregard or gross negligence for the safety of others. There are no genuine issues of material fact, and the City is entitled to judgment as a matter of law. Accordingly, we reverse the judgment of the trial court, grant the City's motion for summary judgment, and dismiss Ms. Hillard's claims with prejudice.

WRIT GRANTED; REVERSED; JUDGMENT RENDERED

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **APRIL 15, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-C-603

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)

HONORABLE JUNE B. DARENSBURG (DISTRICT JUDGE)

J. DOUGLAS SUNSERI (RESPONDENT)

JAMES C. RAFF (RELATOR)

KATHRYN A. E. SUNSERI (RESPONDENT)

MICHAEL L. FANTACI (RELATOR)

DEBORAH A. VILLIO (RELATOR)

CAMERON J. WINDHAM (RESPONDENT)

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