

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

FRANKIE DAVIS, WIFE OF/AND
CLARENCE E. DAVIS; AND TOMMY
AND KATHRINE DAVIS, AS
ADMINISTRATOR AND
ADMINISTRATRIX OF THE
ESTATES OF THE MINOR
CHILDREN, DELLA LOUISE DAVIS
AND CATHIE LEE DAVIS

NO. 2016 CW 1306

VERSUS

JESSICA M. SHEPARD; ALLSTATE
INSURANCE COMPANY; AND THE
STATE OF LOUISIANA, THROUGH
THE DEPARTMENT OF PUBLIC
SAFETY AND CORRECTIONS

DEC 05 2016

In Re: The State of Louisiana Through the Department of
Public Safety and Corrections, applying for
supervisory writs, 22nd Judicial District Court,
Parish of St. Tammany, No. 99-12847.

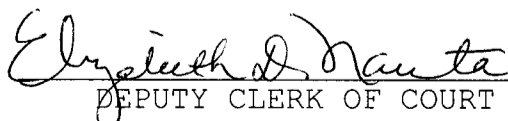
BEFORE: WELCH, CRAIN, AND HOLDRIDGE, JJ.

WRIT DENIED.

GH
JEW

Crain, J., dissents. In response to the Department's motion for summary judgment Davis's burden was to produce factual support sufficient to establish that she will be able to satisfy her evidentiary burden of proving at trial that the Trooper acted with reckless disregard for the safety of others. See La. R.S. 9:2798.1C(2) and La. R.S. 32:24D; La. Code Civ. Pro. art. 966D(1). Reckless disregard is, in effect, gross negligence, which is "the want of even slight care and diligence. It is the want of that diligence which even careless men are accustomed to exercise." **Lenard v. Dilley**, 01-1522 (La. 1/15/02), 805 So.2d 175, 180; **Jones v. American Alternative Ins. Corp.**, 14-0367 (La. App. 1 Cir. 1/8/15), 169 So.3d 386, 389-90. While the events leading up to the accident are disputed, it appears that no version of the events creates fault on the part of the Trooper. Accord **Davis v. Shepard**, 04-0475 (La. App. 1 Cir. 3/24/05) (unpublished decision) (Downing, J., concurring). I would assign the case for briefing, and permit the parties an opportunity to request oral argument. See La. Code Civ. Pro. art. 966H.

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DEPUTY CLERK OF COURT
FOR THE COURT