

IN THE SUPREME COURT OF TENNESSEE  
SPECIAL WORKERS' COMPENSATION APPEALS PANEL  
AT KNOXVILLE

February 7, 2003 Session

**CITY OF RED BANK, TENNESSEE, ET AL. v. KIMILLA R. COFER**

**Direct Appeal from the Circuit Court for Hamilton County  
No. 97-CV-1551 Jackie Schulten, Judge**

**Filed May 2, 2003**

**No. E2002-00192-WC-R3-CV**

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law. The City of Red Bank brought this suit against Kimilla Cofer, a police officer, to determine if it was liable under the provisions of the Workers' Compensation Act for injuries sustained by her in an automobile accident. The trial court found the injuries suffered by Cofer did not arise out of or in the course of her employment with the City. We affirm the judgment of the trial court.

**Tenn. Code Ann. § 50-6-225(e) (1999) Appeal as of Right; Judgment of the Circuit Court  
Affirmed**

BYERS, SR. J., delivered the opinion of the court, in which ANDERSON, J. and THAYER, SP. J., joined.

W. Gerald Tidwell, Jr., Chattanooga, Tennessee, for the appellant Kimilla R. Cofer.

David R. Hensley, Chattanooga, Tennessee, for the appellees, City of Red Bank, Tennessee and Tennessee Municipal League Risk Management Pool.

**MEMORANDUM OPINION**

Officer Kimilla R. Cofer was a police officer with the City. She was assigned by the City as the D.A.R.E. (Drug Abuse Resistance Education) Officer and she also performed normal patrol duty.

Officer Cofer taught D.A.R.E. classes at three schools. In addition to teaching these classes, she would attend D.A.R.E. functions away from the school. If she attended D.A.R.E. functions outside the time of her normal duty hours, she would receive compensated time off instead of

payment.

On March 6, 1997, Officer Cofer worked her regular shift from 7:00 a.m. until 3:00 p.m. When she finished her shift, she drove to her home, donned a D.A.R.E. shirt, and waited for a skating party sponsored by the D.A.R.E. group to start. She left her home driving her own car, and was driving to the event when she was involved in an accident.<sup>1</sup>

There was evidence in the record that Cofer was expected to attend social functions of the students in the D.A.R.E. program such as the skating event on the day of the accident. She was permitted to drive a D.A.R.E. vehicle which was under the control of the city after her shift to these events if she obtained permission from her superior for its use. However, at the time of the accident she was driving her own vehicle.

Cofer acknowledges that as a general rule an employee is not acting within the course of her employment unless the injury occurs on the employer's premises. *Howard v. Cornerstone Medical Associates*, 54 S.W.3d 238 (Tenn. 2001); *Lollar v. Wal-Mart Stores Inc.*, 767 S.W.2d 143 (Tenn. 1989). Under the holdings in these cases, an employee driving to her place of employment is not in the course of her employment. Cofer insists, however, that she as a police officer is always on duty because officers often make arrests or engage in other police-type investigations, etc., while off duty. She relies on the cases of *City of Gallatin v. Anderson*, 354 S.W.2d 84 (Tenn. 1962), and *Mayor and Alderman of the Town of Tullahoma v. Ward*, 114 S.W.2d 804 (Tenn. 1938), in support of this position.

We do not find these cases to support Cofer's claim for compensation. In *Ward*, the officer was walking along a street in Tullahoma on his way to his home. He was in uniform and carrying a weapon at the time. Ward was run down by a drunken driver. Ward later found and arrested the driver.

The court held that Ward was in the course of his employment at the time because he was on the streets of his employer at the time and as such was entitled to coverage under the Workers' Compensation Act. The court's rationale was that Ward was on the premises of his employment, and still under all the obligations of his employment, in uniform, carrying his badge and weapon of office. The court concluded that because of this, Ward was patrolling the streets at the time and his destination was not controlling.

In *Anderson*, the officer was off duty and on a personal mission. He attempted to make an arrest and was injured. The court held that the evidence showed that Anderson was acting in his capacity as an officer at the time of the injury.

In this case, Cofer was not traveling on the streets of the city. She was not in uniform, she

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<sup>1</sup> The defendant received injuries in the accident but these are not at issue at this time in this case.

was in her personal vehicle, and at the time of the accident she was not involved in any police work. The event Cofer was traveling to attend was a social event of the students in the D.A.R.E. program.

Beyond what we have said about the nature of the event to which Cofer was going, at most she would be traveling from her home to a place of work. She was not driving a vehicle of her employer nor was she on the premises of her employer at the time of the accident. Considering these facts, we conclude the evidence supports the finding of the trial judge that Cofer was not in the course of her employment when the accident occurred. *McCurry v. Container Corp. of Am.*, 982 S.W.2d 841 (Tenn. 1998); *Howard v. Cornerstone Medical Associates P.C.*, 54 S.W.3d 238 (Tenn. 2001).

The judgment is affirmed and the cost of this appeal is taxed to Cofer.

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JOHN K. BYERS SENIOR JUDGE

IN THE SUPREME COURT OF TENNESSEE  
AT KNOXVILLE, TENNESSEE

**CITY OF RED BANK, TENNESSEE, ET AL. V. KIMILLA R. COFER**  
**Hamilton County Circuit Court**  
**No. 97-CV-15511**

**May 2, 2003**

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**No. E2002- 00192-WC-R3-CV**

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**JUDGMENT**

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference;

Whereupon, it appears to the Court that the memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of facts and conclusions of law are adopted and affirmed and the decision of the Panel is made the Judgment of the Court.

The costs on appeal are taxed to the appellant, Kimilla R. Cofer, for which execution may issue if necessary.