

The Supreme Court of the State of Louisiana

**MICHEL JACKSON MILLER, INDIVIDUALLY  
AND AS NATURAL TUTRIX OF HER MINOR  
SON**

No.2020-CC-01345

**VS.**

**THE STATE OF LOUISIANA, DEPARTMENT  
OF CORRECTIONS, RODNEY STRAIN,  
SHERIFF OF THE PARISH OF ST. TAMMANY,  
NORTHSHORE WORKPLACE, L.L.C.,  
VICTORY BIBLE CHURCH, A LOUISIANA  
RELIGIOUS CORPORATION**

-----  
IN RE: Northshore Workforce, L.L.C. - Applicant Defendant; Applying For  
Supervisory Writ, Parish of St. Tammany, 22nd Judicial District Court Number(s)  
2015-11850, 1st Circuit Court of Appeal, Number(s) 2020-CW-0772;

-----  
**March 16, 2021**

Writ application granted. See per curiam.

WJC

JLW

JDH

SJC

JTG

JBM

PDG

Supreme Court of Louisiana

March 16, 2021



\_\_\_\_\_  
Chief Deputy Clerk of Court  
For the Court

03/16/21

SUPREME COURT OF LOUISIANA

NO. 2020-CC-1345

MICHEL JACKSON MILLER, INDIVIDUALLY AND AS NATURAL  
TUTRIX OF HER MINOR SON

VS.

THE STATE OF LOUISIANA, DEPARTMENT OF CORRECTIONS,  
RODNEY STRAIN, SHERIFF OF THE PARISH OF ST. TAMMANY,  
NORTHSHORE WORKPLACE, L.L.C., VICTORY BIBLE CHURCH, A  
LOUISIANA RELIGIOUS CORPORATION

On Supervisory Writ to the 22nd Judicial District Court, Parish of St.  
Tammany

PER CURIAM

James Miller was an inmate in the custody of the Department of Corrections, which approved his participation in a work release program operated by Northshore Workforce, LLC (“Northshore”). As part of the program, Mr. Miller was scheduled to work for Victory Bible Church (“Victory”) in Covington on Friday, April 19, 2013 from 9 a.m. to 9 p.m. At the end of the workday, neither Victory nor Northshore could locate Mr. Miller. Northshore later learned that Mr. Miller had been murdered earlier in the day while in New Orleans.

Subsequently, plaintiff, Michel Miller, both individually and on behalf of her minor son, filed the instant wrongful death and survival action against several defendants, including Northshore.

Northshore filed a motion for summary judgment, arguing it did not have a duty to protect an escapee from the criminal acts of an unrelated third party. The district court initially granted Northshore’s motion for summary judgment.

Plaintiff moved for a new trial, asserting she had located two additional witnesses who intended to testify that Mr. Miller had not escaped but had permission

from Northshore to leave the work release program. The district court granted the motion for new trial, stating, “I’m going to grant the motion for new trial, not based on some new witness or anything, but on the fact that the Court may have been wrong.”

Northshore applied for supervisory writs. The court of appeal denied the writ, with one judge dissenting. Northshore then applied to this court.

While we have recognized prison authorities have a duty to prevent inmates from escaping, we have made it clear that this duty is based on the potential for harm to members of the public. *See Wilson v. State through Dept. of Public Safety & Corrections*, 576 So.2d 490, 493 (La. 1991) (“[a]lthough prison authorities have a duty to prevent inmates from escaping, that duty is intended to protect persons from being harmed by escaping inmates while they are in the process of escaping.”). We have not recognized any duty by the prison authorities to protect an escaping inmate from the criminal acts of a third party. Therefore, any injury to Mr. Miller is clearly outside of the scope of Northshore’s duty to prevent inmates from escaping.

We further find it is of no moment whether Mr. Miller was injured while escaping or whether, as plaintiff now argues, he left the worksite with Northshore’s permission. Our jurisprudence has long recognized that absent special circumstances, a penal institution is not the insurer of the safety of inmates in its custody. *See, e.g., State ex rel. Jackson v. Phelps*, 95-2294 (La. 4/8/96), 672 So.2d 665, 667; *Breaux v. State*, 326 So.2d 481, 482 (La. 1976); *Parker v. State*, 282 So.2d 483, 487 (La. 1973), *cert. denied*, 414 U.S. 1093, 94 S.Ct. 724, 38 L.Ed.2d 550 (1973). These holdings are consistent with the well-settled principle that “there is generally no duty to protect others from the criminal activities of third persons.” *Posecai v. Wal-Mart Stores, Inc.*, 99-1222 (La. 11/30/99), 752 So.2d 762, 766. Thus, even assuming Mr. Miller remained under Northshore’s custody, we find

Northshore had no duty to protect Mr. Miller from the criminal activities of third parties.

Where no factual dispute exists and no credibility determinations are required, the legal question of the existence of a duty is appropriately addressed by summary judgment. *Griffin v. Shelter Ins. Co.*, 02-2628 (La. App. 1 Cir. 9/26/03), 857 So.2d 603, 605, *writ denied*, 03-2992 (La. 1/16/04), 864 So.2d 635. Because there are no facts in dispute and the law does not support the existence of a duty, summary judgment in favor of Northshore is appropriate. The district court erred in granting plaintiff's motion for new trial.

### **DECREE**

For the reasons assigned, the writ is granted. The judgment of the district court granting the motion for new trial is vacated and set aside. The judgment of the district court granting summary judgment in favor of Northshore Workforce, LLC is reinstated and affirmed.