

10/08/2012 "See News Release 058 for any Concurrences and/or Dissents."

**SUPREME COURT OF LOUISIANA**

**No. 2012-CC-1162**

**CONSOLIDATED WITH**

**No. 2012-CC-1163**

**MELISSA TAYLOR**

**VERSUS**

**CITY OF LEESVILLE, ET AL.**

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,  
THIRD CIRCUIT, PARISH OF VERNON**

PER CURIAM

Writ granted. The lower courts' decisions are reversed. The trial court found the plaintiff committed a felony at the time she was assaulted and raped by inmates when she attempted to provide an inmate with a cellular phone in violation La. Rev. Stat. § 14:402(E). Because the plaintiff engaged in committing a felony, defendants are entitled to immunity under La. Rev. Stat. § 9:2800.10(A). The "excessive force" exception provided for in La. Rev. Stat. § 9:2800.10(B) does not apply to the present case. For a use of force to constitute "excessive force," the actor must first have the right to use reasonable force under the circumstances. As the inmates did not have the right to use *any* force in committing a rape, the term is inapplicable to the inmates' conduct, and plaintiff's injury does not fall under the exception of La. Rev. Stat. § 9:2800.10(B). The defendants are entitled to judgment as a matter of law. Accordingly, the defendants' motion for summary judgment is hereby granted.