

SUPREME COURT OF LOUISIANA

96-C-1382

GARY L. VALENTINE

versus

BONNEVILLE INSURANCE COMPANY, ET AL.

KNOLL, J., dissenting.

I agree with Chief Justice Calogero's dissent regarding the ambiguity of the named insured in the policy. Additionally, I find it significant that Deputy Valentine was engaged in his duties as a deputy sheriff and was assigned to one of the insured patrol units at the time he was struck by the uninsured motorist.

The Webster Parish Sheriff's Department, as an unincorporated association, cannot perform any act without one of its agents acting for it. The Webster Parish Sheriff's Department cannot drive a patrol unit, nor can it suffer damages by being struck by an uninsured motorist. Most of the department's functions are necessarily performed by its deputies. We need not address the issue of whether Deputy Valentine is covered at all times, in all places, and under all conditions. We merely must decide whether a deputy is covered when he is struck by an uninsured motorist while he is on duty, performing an official traffic-related function, and assigned to an insured patrol unit. I find that at a bare minimum, while the deputy is performing his official duties, especially under the instant circumstances, he *is* the "Webster Parish Sheriff's Department" named in the policy.

I find that under *Employers Ins. Co. of Wausau v. Dryden*, 422 So.2d 1243 (La.App. 1 Cir. 1982), Deputy Valentine is a named insured under the policy. I also

find *Hobbs v. Rhodes*, 95-1937 (La.App. 4 Cir. 11/30/95); 667 So.2d 1112, *writ denied*, 96-0733 (La.5/3/96); 672 So.2d 691, applicable. In *Hobbs* an employee of the named insured was covered when he was struck by an uninsured motorist, even though the employee was not occupying a covered vehicle at the time of the accident. The court in *Hobbs* cited *Howell v. Balboa Ins. Co.*, 564 So.2d 298 (La.1990), and held that because the employee was covered under the liability provisions of the policy while in the course and scope of his employment, he was necessarily covered to the same extent by the uninsured motorist provisions. I therefore find it significant that Deputy Valentine was in the course and scope of his employment at the time of the accident.

For the foregoing reasons, I respectfully dissent.