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LEGAL BRIEFS

FULL COURT REVERSES PANEL ON POLICE DUTY OF CARE

Boca Raton police did not owe a duty of care to an intoxicated man who was released from the police station and killed by a train 50 feet away, the 4th District Court of Appeal ruled Wednesday.

The full court reversed a decision by a panel that concluded last July that police were obligated to protect their detainee.

Peter Milanese sued the city over the death of his son Christopher Milanese, 24, who walked away from the station with a blood alcohol level of 0.199 and lay down beside railroad tracks.

Milanese was pulled over about 2½ hours earlier for erratic driving. He was taken into custody and issued five citations. None were for driving under the influence.

The police called Milanese a cab and let him go, but he never found the cab and wandered off. The father argued police should have made sure his son got into the cab.

"While police may have been aware of the dangers which faced Milanese upon his release, the police played no part in creating those dangers, nor did the police do anything to render Milanese more vulnerable to those dangers," Judge Jonathan Gerber wrote for the 6-5 majority. "In sum, the police placed Milanese

in no worse position than if they had not acted at all."

Jamie Cole of Weiss Serota Helfman Pastoriza Cole & Boniske, who represented the city, said police departments were watching this case.

"The prior decision would have created for the first time an unprecedented duty on police to ensure the safety of people after their release from custody," he said.

James K. Green of West Palm Beach, the appellate attorney for Milanese, said, "I need to speak with my clients, but we can seek review from the Florida Supreme Court." (**Adolfo Pesquera**)