

Scott v Davis [2000] HCA 52

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Facts

- Davis was a licensed pilot with several planes who held a party. One of the guests, Scott, asked if he could go on a joyride.
- Davis agreed, and asked Bradford, another guest at the party who was also a licensed pilot, to take him.
- The plane crashed, killing Bradford and seriously injuring Scott. Scott's parents suffered nervous shock as a result.
- Bradford was neither a contractor or employee of Davis, but the Scotts claimed an 'principal/agent' relationship and thus vicarious liability.

Held

- Bradford was not acting as an employee or an independent contractor
- Bradford was not an agent of Davis because at the time of his negligent act Davis was not in the position to assert any power of control or direction over the manner in which Bradford was flying the aircraft. Davis did not have any radio or other means of communicating with Bradford whilst he was flying nor was he able to take control of the aircraft himself.
- The fact that Bradford was using the aircraft at Davis' request and for his purpose does not make him a representative or delegate of Davis and therefore vicariously liable because Bradford merely rendered a voluntary service in a social function at the request of the Davis.

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