

**NEW GEORGIA SUPREME COURT NEGLIGENT SECURITY CASE—  
MARTIN V. SIX FLAGS OVER GEORGIA II, L.P.—LANDOWNER IS  
LIABLE EVEN WHERE THE CRIME OCCURRED OFF THE PREMISES  
AND APPROACHES**

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Introduction

In Georgia, suits against property owners for negligent security are *de rigueur*. The cases arise because landowners owe invitees a duty to exercise reasonable care to keep their “premises and approaches” safe. Generally, landowners aren’t responsible for what happens off their property and beyond the adjacent approaches.

Recently, however, in *Martin v. Six Flags Over Georgia II, L.P.*<sup>1</sup> the Georgia Supreme Court imposed liability against a landowner in a negligent security case where the injury occurred both *off* the landowner’s property and *beyond* its approaches.

The facts of *Martin*

Plaintiff Joshua Martin went to an amusement park with his brother and a friend. As the park’s closing time approached, the three left the park and walked to a nearby hotel to use the bathroom. They returned to an area in front of the park entrance to wait for a public bus, sitting on a guard rail adjacent to the park’s main entrance along a roadway leading into the park. The bus stop, visible from the guardrail, was 200 from the park’s property line.

During the day and in the early evening, a group of young men were roaming the park. The group had been involved in a confrontation with other park patrons, and had threatened to “get them” in the parking lot. The patrons reported the confrontation to a security officer, including the parking lot threat. As the patrons and their families prepared to exit the park’s main gates, they noticed the same group of men, whose numbers had grown to approximately 40. The patrons

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<sup>1</sup> 301 Ga. 323, 801 S.E.2d 24, 2017 Ga. LEXIS 454, 2017 WL 2414685.

left the park, followed by security guards, who stood outside watching. The patrons reached their cars and left without further incident.

The group of young men then made their way back to the area outside the park's main gate where Plaintiff and his companions were sitting. The group followed the Plaintiff and his companions to the bus stop where, without any provocation, one of the group approached Plaintiff and began beating him with brass knuckles. The attack occurred outside the park's property.

A later police investigation revealed that the assailants were affiliated with a gang-like group, and other evidence showed that the park was routinely the site of gang congregation and activity. There was evidence of gang "tags" and graffiti in the male employee locker room, and an off-duty police officer who worked in park security testified that the park's management knew or should have known that many of its employees were gang members.

Holding—the crime did not have to happen on the premises

In analyzing liability, the Court first cited the Georgia code section holding owners of land liable for injuries to invitees caused by the failure to exercise ordinary care to keep the "premises and approaches" safe. The Court acknowledged that, in the ordinary case, the criminal act was completed within the physical boundaries of the landowner's property.

In this case, however, the physical attack on Plaintiff occurred outside the park's boundaries. Nevertheless, the Court determined that Plaintiff's injuries culminated from a continuous string of events planned and executed (at least in part) on the park's property. Those events resulted from the park's failure to exercise ordinary care to protect its invitee from unreasonable risks that the park understood. The park could not evade liability simply because Martin had moved off the premises. His stepping outside the premises could not insulate the park from responsibility from an attack that began within the premises and was the foreseeable result of the park's breach of duty of care. The fact that the attack took place off the property provided no defense.

Holding—the crime did not have to happen on the approaches

In addition, the Court disputed the lower appellate court's conclusion that the park was liable because the assault took place within the park's "approaches." The Court determined that the evidence did not demonstrate that the park exercised

positive dominion over the public way or other property necessary to make those areas “approaches.” The attack occurred at a public bus stop that was not contiguous or adjacent to the park’s property in any way, and could not be within the park’s “approaches.” Although the Court rejected the contention that the park’s conduct sufficed to extend its duty of care to encompass the bus stop itself, it still held that the jury could find that the park breached its duty to keep its premises safe, and that this breach caused Martin’s injury. Thus, the fact that the attack took place beyond the approaches provided no defense.