

factual support for the claim of egregious conduct by the Defendants.<sup>10</sup>

The long and short of it is this: however tragic, the peril that Patricia faced was of her own making. Therefore, because the Defendants actions created neither circumstances that forced Patricia into a dangerous position nor the danger itself, the analysis need go no further. With no grounds for asserting that the Defendants owed Patricia any duty - namely no duty of care, no special duty, and no duty based on Defendants' own egregious

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<sup>10</sup>A state actor may be subject to liability "when the state has knowledge that it has created a circumstance that forces an individual into a position of peril and subsequently chooses not to remedy the situation." Haley v. Town of Lincoln, 611 A.2d 845, 849 (R.I. 1992) (quoting Verity v. Danti, 585 A.2d 65, 67 (R.I. 1991)). The following elements must be established before conduct may be considered egregious: "(1) the state, in undertaking a discretionary action or in maintaining or failing to maintain the product of a discretionary action, created circumstances that forced a reasonably prudent person into a position of extreme peril; (2) the state, through its employees or agents capable of abating the danger, had actual or constructive knowledge of the perilous circumstances; and (3) the state, having been afforded a reasonable amount of time to eliminate the dangerous condition, failed to do so." Id. (quoting Verity, 585 A.2d at 67); see also Tedesco v. Connors, 871 A.2d 920, 924 (R.I. 2005). If a plaintiff fails to "offer a legally sufficient evidentiary basis that would allow a reasonable juror to find for him or her on each of the three elements of egregious conduct, then the trial justice should determine that conduct is not egregious as a matter of law and dismiss the plaintiff's action." Id. at 926. Applying this standard, the requisite elements are not met on the facts of this case.