

IN THE SUPREME COURT OF TEXAS

No. 04-0666

LORAM MAINTENANCE OF WAY, INC.,
PETITIONER,

v.

DAVID IANNI,
RESPONDENT

ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS

Argued November 29, 2005

JUSTICE O'NEILL, joined by CHIEF JUSTICE JEFFERSON, concurring.

I write separately to emphasize that the Court's decision in no way condones the alleged action of Loram supervisors in tolerating, and sometimes even encouraging, methamphetamine use among employees. If those allegations are true, as the jury by its verdict impliedly found, then criminal prosecution would be warranted and hopefully pursued. But the issue that confronts the Court today is different: whether Loram may be held civilly liable for the actions of its off-duty employee over whom it had no control when Ianni was injured. As to this question, I agree with, and

fully join, the Court's opinion.

Harriet O'Neill
Justice

OPINION DELIVERED: June 30, 2006