

SUPREME COURT OF MISSISSIPPI

Smith ex rel. Smith v. Leake County School District

195 So. 3d 771 (Miss. 2016) · No. No. 2015-CA-01056-SCT · Decided July 28, 2016

SUMMARY

The Supreme Court of Mississippi held that a school district's statutory duties to maintain a safe school environment and address bullying were ministerial rather than discretionary under the Mississippi Tort Claims Act. The court reversed summary judgment based on discretionary-function and student-discipline immunities and remanded the case for further proceedings on the plaintiff's negligence claims.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, Chief Justice; Waller, C.J.; Dickinson, P.J.; King, J.; Kitchens, J.; Lamar, J.; Randolph, P.J.; Beam, J.
JURISDICTION	Mississippi
DECIDED	July 28, 2016
DOCKET	No. 2015-CA-01056-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiff appealed from a circuit court order granting the school district's motion for summary judgment on discretionary-function-immunity grounds under the Mississippi Tort Claims Act.
STANDARD OF REVIEW	De novo review applies both to a trial court's determination that a governmental entity is immune under the Mississippi Tort Claims Act and to an award of summary judgment. The evidence is viewed in the light most favorable to the nonmoving party, who must identify specific facts showing a genuine issue for trial.
PRECEDENTIAL VALUE	Published en banc decision of the Supreme Court of Mississippi; precedential.
PARTIES	Yahenacy Smith, a minor, by and through her natural mother and next friend, Felicia Smith v. Leake County School District

TOPICS

negligence

personal injury

summary judgment

municipal liability

statutory interpretation

PRACTICE AREAS

torts

governmental immunity

school liability

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the school district's governmental function concerning student discipline, school safety, and prevention of bullying was ministerial or discretionary under the Mississippi Tort Claims Act.
2. Whether Mississippi Tort Claims Act section 11-46-9(1)(x) and Mississippi Code section 37-11-57 immunize claims by a student injured by another student, rather than claims by the student who was the object of school discipline.
3. Whether Smith was required to exhaust administrative remedies before filing suit.
4. Whether the circuit court erred by refusing to allow rebuttal testimony concerning the principal's affidavit.

HOLDINGS

1. Mississippi Code sections 37-9-69, 37-11-67, and 37-11-69 impose ministerial duties on the school district to hold students strictly accountable for disorderly conduct, provide a safe school environment, and prevent acts of bullying. The district therefore was not entitled to discretionary-function immunity at the summary-judgment stage.
2. Mississippi Tort Claims Act section 11-46-9(1)(x) and Mississippi Code section 37-11-57 apply to claims by the student who was the object of the school official's control or discipline, not to an injured third-party student harmed by another student's lack of control or discipline.
3. The exhaustion argument was without merit and did not provide a basis for summary judgment.

KEY QUOTATIONS

“The test for determining whether discretionary-function immunity attaches is not whether a political subdivision has discretion in deciding how to perform its duties; the test is whether a political subdivision has discretion in deciding whether to perform its duties.” (at 779)

“Sections 11-46-9(1)(x) and 37-11-57 are applicable only to claims by the student who was the object of discipline, and not injured third parties, such as Smith.” (at 781)

“Collectively, Sections 37-9-69, 37-11-67, and 37-11-69 impose a ministerial duty on Leake Central to provide a safe school environment and prevent acts of bullying against students.” (at 781)

FACTUAL BACKGROUND

Yahenacy Smith, a sixth-grade special-education student, experienced a continuing pattern of bullying by Helen Luckett and four other students. Smith's mother reported the bullying to school officials, and after a November 4, 2013 incident Luckett was suspended from riding the school bus. Despite that suspension, the principal placed

Luckett on the same bus as Smith the next day, and Luckett and the other girls attacked Smith with a metal belt buckle, breaking her wrist and puncturing her scalp until she lost consciousness.

PROCEDURAL HISTORY

Smith sued the Leake County School District for negligence and negligence per se after being attacked and seriously injured by other students on a school bus. The circuit court converted the district's Rule 12(b)(6) motion into a Rule 56 motion because the district submitted a principal's affidavit, then granted summary judgment based principally on discretionary-function immunity and also noted statutory immunity relating to student discipline. The Mississippi Supreme Court reversed and remanded for Smith to proceed with her claims.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the circuit court's grant of summary judgment and remand for Smith to proceed with her negligence and negligence-per-se claims and for trial on the merits, including determination of whether Leake County School District used ordinary care under Mississippi Code section 11-46-9(1)(b).

CASES CITED

- Brantley v. City of Horn Lake, 152 So. 3d 1106 (Miss. 2014)
- Boroujerdi v. City of Starkville, 158 So. 3d 1106, 1109 (Miss. 2015)
- L.W. v. McComb Separate Municipal School District, 754 So. 2d 1136, 1138-39 (Miss. 1999)
- Lang v. Bay St. Louis/Waveland School District, 764 So. 2d 1234 (Miss. 1999)
- Henderson v. Simpson County Public School District, 847 So. 2d 856, 857 (Miss. 2003)
- The Moss Point School District v. Stennis, 132 So. 3d 1047, 1050-51 (Miss. 2014)
- Mississippi Transportation Commission v. Montgomery, 80 So. 3d 789, 797 (Miss. 2012)
- Little v. Mississippi Department of Transportation, 129 So. 3d 132, 136, 138 (Miss. 2013)
- Doe v. Rankin County School District, 189 So. 3d 616, 619 (Miss. 2015)
- Pigford v. Jackson Public School District, 910 So. 2d 575, 579 (Miss. Ct. App. 2005)
- Collins v. Tallahatchie County, 876 So. 2d 284, 289 (Miss. 2004)
- Jones v. Mississippi Department of Transportation, 744 So. 2d 256, 260 (Miss. 1999)
- Crum v. City of Corinth, 183 So. 3d 847, 853-54 (Miss. 2016)
- Dancy v. East Mississippi State Hospital, 944 So. 2d 10, 16 (Miss. 2006)
- United States v. Gaubert, 499 U.S. 315, 322-23 (1991)