

COURT OF APPEALS OF TEXAS, ELEVENTH DISTRICT

Larry R. Miller v. Ector County Hospital District D/B/A Medical Center Hospital

Miller v. Ector County Hospital District · No. 11-11-00221-CV · Decided August 8, 2013

SUMMARY

The Eleventh Court of Appeals of Texas affirmed dismissal of Larry R. Miller's libel, slander, defamation, and intentional-infliction-of-emotional-distress claims against Ector County Hospital District. The court held that Miller failed to properly preserve and support his request for a continuance and that the hospital district was immune from suit under the Texas Tort Claims Act for his intentional tort claims.

CASE DETAILS

COURT	Court of Appeals of Texas, Eleventh District
WRITING FOR THE COURT	Terry McCall; Wright, C.J.; Terry McCall, J.; Willson, J.
JURISDICTION	Texas
DECIDED	August 8, 2013
DOCKET	11-11-00221-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Miller appealed the trial court's order granting the hospital district's plea to the jurisdiction and dismissing his claims with prejudice. On appeal, he challenged only the denial of a continuance to conduct additional discovery.
STANDARD OF REVIEW	Denial of a motion for continuance is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published
PARTIES	Larry R. Miller v. Ector County Hospital District d/b/a Medical Center Hospital

TOPICS

subject matter jurisdiction

civil procedure

appellate procedure

standard of review

defamation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying Miller's request for a continuance to complete discovery before ruling on the hospital's plea to the jurisdiction and motion for summary judgment.

HOLDINGS

1. The trial court did not abuse its discretion in denying Miller's request for a continuance because Miller did not file a verified motion for continuance and did not show how the requested discovery could support a waiver of sovereign immunity under the Texas Tort Claims Act.
2. The governmental hospital district was immune from suit on Miller's intentional tort claims because the Texas Tort Claims Act does not waive governmental immunity for intentional torts.

KEY QUOTATIONS

“The Tort Claims Act expressly waives sovereign immunity in three general areas: ‘use of publicly owned automobiles, premises defects, and injuries arising out of conditions or use of property.’” (at 1)

“But Miller did not outline anything in his response or affidavit that, if produced, would support any claim under the TTCA, and Medical Center was immune from suit for all of his intentional tort claims.” (at 3)

FACTUAL BACKGROUND

Miller, a former pharmacist at Medical Center Hospital, alleged that the hospital fired him or forced him to resign after receiving an anonymous letter accusing him of reporting to work intoxicated and stealing prescription medication. He claimed the allegations were false, that another employee instigated the investigation, and that the hospital published false statements, causing lost income, vacation, and retirement benefits. During the litigation, Miller identified billing records, prescription inventories, swipe-card activity, and camera images as discovery he claimed was necessary, but he did not explain how those materials would establish a waiver of sovereign immunity under the Texas Tort Claims Act.

PROCEDURAL HISTORY

Miller sued Ector County Hospital District for libel, slander, defamation, and intentional infliction of emotional distress arising from the termination or forced resignation of his employment. After discovery began, the hospital filed a plea to the jurisdiction and motion for summary judgment asserting sovereign immunity under the Texas Tort Claims Act. The district court granted the plea and entered a final judgment dismissing the claims with prejudice. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- County of Cameron v. Brown, 80 S.W.3d 549, 554 (Tex. 2002)
- Texas Department of Transportation v. Able, 35 S.W.3d 608, 611 (Tex. 2000)
- Reata Construction Corp. v. City of Dallas, 197 S.W.3d 371, 374 (Tex. 2006)
- Texas Department of Transportation v. Jones, 8 S.W.3d 636, 638 (Tex. 1999)
- State ex rel. State Department of Highways & Public Transportation v. Gonzalez, 82 S.W.3d 322, 326 (Tex. 2002)
- Joe v. Two Thirty Nine Joint Venture, 145 S.W.3d 150, 161 (Tex. 2004)
- Tri-Steel Structures, Inc. v. Baptist Foundation of Texas, 166 S.W.3d 443, 447-48 (Tex. App.—Fort Worth 2005, pet. denied)
- Villegas v. Carter, 711 S.W.2d 624, 626 (Tex. 1986)

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