

SUPREME COURT OF UTAH

Davis v. Central Utah Counseling Center

147 P.3d 390 (Utah 2006) · No. No. 20040544 · Decided September 12, 2006

SUMMARY

The Utah Supreme Court affirmed the dismissal of claims against the State of Utah and Juab County and affirmed summary judgment for Central Utah Counseling Center and its employees. The court held that Central Utah Counseling Center was a properly formed interlocal agency entitled to governmental immunity and that the plaintiffs failed to strictly comply with the Utah Governmental Immunity Act's notice-of-claim requirements. The court also held that the plaintiffs' failure to serve the notice of appeal on the State and Juab County was not jurisdictionally fatal, but affirmed dismissal of the claims against those parties.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Parrish; Chief Justice Durham; Associate Chief Justice Wilkins; Justice Nehring; District Judge Denise P. Lindberg, sitting by designation
JURISDICTION	Utah
DECIDED	September 12, 2006
DOCKET	No. 20040544
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed the dismissal of claims against the State of Utah and Juab County for failure to state a claim and the grant of summary judgment in favor of Central Utah Counseling Center and its employees based on failure to comply with the Utah Governmental Immunity Act's notice requirements.
STANDARD OF REVIEW	Dismissal for failure to state a claim is reviewed for correctness. Summary-judgment legal decisions are reviewed for correctness without deference, and facts and inferences are viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Robert L. Davis, Jenean Brothers, Robert L. Davis, as personal representative of the Estate of Bryan R. Davis v. Central Utah

TOPICS

civil procedure subject matter jurisdiction summary judgment appellate procedure health law

PRACTICE AREAS

civil procedure appellate procedure governmental immunity torts health law

QUESTIONS PRESENTED

1. Whether the Utah Supreme Court had jurisdiction to review the dismissal of the State and Juab County despite plaintiffs' failure to serve those parties with the notice of appeal.
2. Whether the State of Utah could be liable for CUCC's conduct because of CUCC's statutory, administrative, and financial relationship with the State.
3. Whether oral or published representations by state employees could impose liability on the State or excuse plaintiffs' failure to serve CUCC with a notice of claim.
4. Whether Juab County's dismissal should be disturbed when plaintiffs inadequately briefed the issue on appeal.
5. Whether CUCC was a properly formed interlocal agency and therefore a governmental entity protected by the Utah Governmental Immunity Act.
6. Whether plaintiffs' notice to the State Attorney General's office and Juab County Clerk satisfied the Immunity Act's requirement that notice be directed and delivered to CUCC's governing board member, executive director, or executive secretary.
7. Whether an exception to the Immunity Act's strict-compliance requirement was warranted by the alleged confusion and misdirection surrounding CUCC's governmental status.

HOLDINGS

1. Timely filing of a notice of appeal is the only jurisdictional requirement for appellate review under Utah Rule of Appellate Procedure 3(a); failure to serve the notice on opposing parties may support discretionary dismissal or sanctions but is not jurisdictionally fatal.
2. CUCC was not an agency or instrumentality of the State of Utah, and liability for the acts of CUCC's employees and officials rested with CUCC rather than the State.
3. Unauthorized oral representations by State employees and information on a State website could not impose liability on the State for CUCC's conduct or excuse plaintiffs' failure to comply with the Immunity Act.
4. The dismissal of Juab County was affirmed because plaintiffs failed to adequately brief any legal or factual basis for reversal.

5. CUCC was a properly formed interlocal agency and political subdivision entitled to the protections of the Utah Governmental Immunity Act.
6. Plaintiffs' notice was invalid because they did not direct and deliver it to a member of CUCC's governing board, CUCC's executive director, or CUCC's executive secretary within one year after the claim arose.

KEY QUOTATIONS

“The timely filing of a notice of appeal is the act that vests the appellate court with jurisdiction over the appeal.” (147 P.3d at 394)

“The Immunity Act bars claims against political subdivisions and their employees “unless notice of claim is filed with the governing body of the political subdivision . . . within one year after the claim arises.”” (147 P.3d at 399)

“Jurisdiction instead springs when a claimant has effected full compliance with the Immunity Act.” (147 P.3d at 400)

“They failed to do so and are therefore precluded from bringing suit against CUCC and its employees.” (147 P.3d at 401)

FACTUAL BACKGROUND

Bryan Davis, age nineteen, committed suicide on November 23, 1998, while receiving treatment from Central Utah Counseling Center in Nephi, Utah. Plaintiffs' attorney investigated CUCC's status and, relying on information from unidentified employees and state personnel, sent a notice of claim to the State Attorney General's office and the Juab County Clerk, but not to CUCC's governing board, executive director, or executive secretary. CUCC had been created by six counties under Utah's Interlocal Cooperation Act to provide mental-health services and operated under a governing board.

PROCEDURAL HISTORY

After Bryan Davis's death, plaintiffs filed medical-malpractice and wrongful-death claims against Central Utah Counseling Center, its employees, the State, and Juab County. The district court dismissed the State and Juab County, denied an initial motion to dismiss and partial summary-judgment motion by CUCC, and later granted CUCC and its employees summary judgment after determining that CUCC was a governmental interlocal agency and that plaintiffs had not properly served a notice of claim. The court denied plaintiffs' motion for a new trial. Plaintiffs appealed, and the Utah Supreme Court affirmed all challenged orders.

DISPOSITION

affirmed

CASES CITED

- *Gorostieta v. Parkinson*, 2000 UT 99, 17 P.3d 1110
- *Harley Davidson of N. Utah v. Workforce Appeals Bd.*, 2005 UT 38, 116 P.3d 349

- Warner v. DMG Color, Inc., 2000 UT 102, 20 P.3d 868
- Bischel v. Merritt, 907 P.2d 275 (Utah Ct. App. 1995)
- Greene v. Utah Transit Authority, 2001 UT 109, 37 P.3d 1156
- Valcarce v. Fitzgerald, 961 P.2d 305 (Utah 1998)
- State v. Thomas, 961 P.2d 299 (Utah 1998)
- State v. Gamblin, 2000 UT 44, 1 P.3d 1108
- J.R. Simplot Co. v. Sales King Int'l, Inc., 2000 UT 92, 17 P.3d 1100
- Gurule v. Salt Lake County, 2003 UT 25, 69 P.3d 1287
- Rushton v. Salt Lake County, 1999 UT 36, 977 P.2d 1201
- Gallegos v. Midvale City, 27 Utah 2d 27, 492 P.2d 1335 (1972)
- Artukovich v. Astendorf, 21 Cal. 2d 329, 131 P.2d 831 (1942)
- Larson v. Park City Municipal Corp., 955 P.2d 343 (Utah 1998)

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