

SUPREME COURT OF ALABAMA

Larkins v. Department of Mental Health and Mental Retardation

806 So. 2d 358 (Ala. 2001) · No. 1991538 · Decided June 8, 2001

SUMMARY

The Alabama Supreme Court held that the Alabama Department of Mental Health and Mental Retardation was immune from a private USERRA action in state court under Article I, § 14, of the Alabama Constitution. The court concluded that Congress's Article I military powers did not authorize subjecting Alabama to such suits and that Alabama sovereign immunity deprived the courts of subject-matter jurisdiction. The court affirmed summary judgment for the Department without reaching the merits of the USERRA claims.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Lyons, Justice; Moore, C.J.; Houston, J.; See, J.; Brown, J.; Johnstone, J.; Harwood, J.; Woodall, J.; Stuart, J.
JURISDICTION	Alabama
DECIDED	June 8, 2001
DOCKET	1991538
DISPOSITION	affirmed
PROCEDURAL POSTURE	Larkins appealed from a summary judgment entered by the Montgomery Circuit Court in favor of the Department in an action asserting claims under the Uniformed Services Employment and Reemployment Rights Act.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court also independently considers subject-matter jurisdiction, which cannot be waived and may be noticed at any stage of the proceedings.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential.
PARTIES	Wallace M. Larkins v. Department of Mental Health and Mental Retardation

TOPICS

military law

federal employment law

eleventh amendment immunity

subject matter jurisdiction

summary judgment

PRACTICE AREAS

employment law

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QUESTIONS PRESENTED

1. Whether Alabama's sovereign immunity under Article I, § 14, of the Alabama Constitution barred Larkins's state-court action against the Department under USERRA.
2. Whether Congress's authority under Article I of the United States Constitution to regulate the military permitted Congress to subject Alabama to a private USERRA suit in state court.
3. Whether the Department waived or forfeited its sovereign-immunity defense by failing to assert it precisely or in the trial court.

HOLDINGS

1. Article I, § 14, of the Alabama Constitution makes the State and its agencies absolutely immune from suit in Alabama courts, and that immunity barred Larkins's USERRA claims against the Department.
2. Congress's Article I powers concerning military preparedness did not authorize it to subject Alabama to a private suit in state court notwithstanding Alabama's sovereign immunity.
3. The Department did not waive its sovereign immunity by failing to assert the defense precisely or apparently failing to raise it in the trial court.

KEY QUOTATIONS

“The Constitution, by delegating to Congress the power to establish the supreme law of the land when acting within its enumerated powers, does not foreclose a State from asserting immunity to claims arising under federal law merely because that law derives not from the State itself but from the national power.” (at 363)

“Article I, § 14, of the Alabama Constitution of 1901 thus removes subject-matter jurisdiction from the courts when an action is determined to be one against the State.” (at 363-64)

FACTUAL BACKGROUND

Larkins was employed as a mental-health police officer at a facility owned and operated by the Department. While serving in the United States Air Force Reserve, he injured his foot during a military training camp and later returned to his civilian position. He took successive periods of leave because of the injury and requested light-duty or reassignment accommodations, which the Department denied. He also alleged that the Department retaliated against him by lowering his evaluation score, causing him to lose a two-step pay increase.

PROCEDURAL HISTORY

Larkins initially sued the Department in the United States District Court for the Middle District of Alabama, which dismissed the complaint for lack of jurisdiction. He refiled in the Montgomery Circuit Court, alleging

retaliation under 38 U.S.C. § 4311 and failure to accommodate under 38 U.S.C. § 4313. Both parties moved for summary judgment, and the circuit court entered judgment for the Department. The Supreme Court of Alabama affirmed on the ground that the Department was immune from suit under Article I, § 14, of the Alabama Constitution.

DISPOSITION

affirmed

CASES CITED

- *Monroe v. Standard Oil Co.*, 452 U.S. 549, 101 S. Ct. 2510, 69 L. Ed. 2d 226 (1981)
- *Velasquez v. Frapwell*, 165 F.3d 593 (7th Cir. 1999)
- *Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 63-67, 72 (1996)
- *Alden v. Maine*, 527 U.S. 706, 712-14, 732-33 (1999)
- *Blatchford v. Native Village of Noatak*, 501 U.S. 775, 779 (1991)
- *Printz v. United States*, 521 U.S. 898, 919, 923-24 (1997)
- *New York v. United States*, 505 U.S. 144, 156-59, 177 (1992)
- *Hans v. Louisiana*, 134 U.S. 1, 10 (1890)
- *Employees of Department of Public Health and Welfare of Missouri v. Department of Public Health and Welfare of Missouri*, 411 U.S. 279, 283 (1973)
- *Parden v. Terminal Railway of the Alabama State Docks Department*, 377 U.S. 184, 190-94 (1964)
- *Pennsylvania v. Union Gas Co.*, 491 U.S. 1, 13-23 (1989)
- *College Savings Bank v. Florida Prepaid Postsecondary Education Expense Board*, 527 U.S. 666, 680 (1999)
- *Board of Trustees of the University of Alabama v. Garrett*, 531 U.S. 356, 363-74 (2001)
- *Kimel v. Florida Board of Regents*, 528 U.S. 62, 80-82 (2000)
- *Druid City Hospital Board v. Epperson*, 378 So. 2d 696 (Ala. 1979)
- *Alabama State Docks Terminal Railway v. Lyles*, 797 So. 2d 432, 434-35 (Ala. 2001)
- *Ex parte Franklin County Department of Human Resources*, 674 So. 2d 1277, 1279 (Ala. 1996)
- *Barnes v. Dale*, 530 So. 2d 770 (Ala. 1988)
- *Dunn Construction Co. v. State Board of Adjustment*, 234 Ala. 372, 376, 175 So. 383, 386 (1937)
- *Jones v. Alabama State Docks*, 443 So. 2d 902, 905 (Ala. 1983)
- *Hutchinson v. Board of Trustees of University of Alabama*, 288 Ala. 20, 24, 256 So. 2d 281, 284 (1971)
- *Alabama State Docks v. Saxon*, 631 So. 2d 943, 946 (Ala. 1994)
- *Ex parte Cranman*, 792 So. 2d 392 (Ala. 2000)
- *J.R. Raible Co. v. State Tax Commission*, 239 Ala. 41, 194 So. 560 (1939)
- *Horn v. Dunn Brothers, Inc.*, 262 Ala. 404, 79 So. 2d 11 (1955)
- *Scott v. Alabama State Bridge Corporation*, 233 Ala. 12, 169 So. 273 (1936)
- *Mobile & Gulf Railroad v. Crocker*, 455 So. 2d 829, 831 (Ala. 1984)

- Norton v. Liddell, 280 Ala. 353, 356, 194 So. 2d 514, 517 (1967)
- Alfa Mutual General Insurance Co. v. Oglesby, 711 So. 2d 938, 942 (Ala. 1997)

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