

SUPREME COURT OF GEORGIA

Primas v. City of Milledgeville

296 Ga. 584 (2015) · No. S14G0753 · Decided February 16, 2015

SUMMARY

The Georgia Supreme Court vacated the Court of Appeals' decision holding that the City of Milledgeville was protected by sovereign immunity from a negligence claim involving the maintenance and inspection of a city-owned vehicle. The court held that the lower court improperly analyzed municipal sovereign immunity using principles applicable to official immunity and remanded for consideration of whether the alleged negligence arose from a governmental function. The court did not reach the alternative argument that the City waived immunity by purchasing insurance.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Per curiam
JURISDICTION	Georgia
DECIDED	February 16, 2015
DOCKET	S14G0753
DISPOSITION	vacated
PROCEDURAL POSTURE	The Supreme Court of Georgia granted Primas's petition for writ of certiorari to review the Court of Appeals' reversal of the trial court's denial of the City's motion for summary judgment on sovereign-immunity grounds.
STANDARD OF REVIEW	Review of the Court of Appeals' legal analysis on certiorari; the opinion addresses the legal standards governing municipal sovereign immunity and summary judgment.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Georgia
PARTIES	Lucious Primas v. City of Milledgeville

TOPICS

[municipal liability](#)[municipal law](#)[negligence](#)[appellate procedure](#)[writ of certiorari](#)

PRACTICE AREAS

municipal law

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sovereign immunity

QUESTIONS PRESENTED

1. Whether the Court of Appeals applied the proper analysis in determining whether the City's sovereign immunity was waived under OCGA § 36-33-1 (b).
2. Whether the alleged negligent maintenance and inspection of the vehicle arose from the performance or nonperformance of a governmental function for purposes of municipal sovereign immunity.
3. Whether Primas's argument that the City waived sovereign immunity by purchasing insurance was preserved for appellate review.

HOLDINGS

1. The Court of Appeals applied an incorrect legal analysis by treating the municipal sovereign-immunity issue as one of official immunity and by applying the definitions and principles governing official immunity's ministerial and discretionary acts.
2. Primas's argument that the City waived sovereign immunity by purchasing insurance presented nothing for review because it was not raised or ruled on in the trial court or Court of Appeals and was not the ground on which Primas relied below.

KEY QUOTATIONS

“Because we find that the proper analysis was not applied, we vacate the decision of the Court of Appeals and remand to that court for its reconsideration.” (296 Ga. at 584)

“In doing so, the Court of Appeals applied inapplicable legal principles, definitions, and precedent and failed to make any determination regarding whether the alleged negligence arose out of the performance, or non-performance, of a governmental function.” (296 Ga. at 584-585)

FACTUAL BACKGROUND

Lucious Primas was injured while driving a City of Milledgeville-owned prison work-detail van leased to the Georgia Department of Corrections. Under the lease contract, the City was responsible for maintaining the vehicle and purchasing insurance. When the van's brake line failed near an intersection, Primas steered off the road but collided with a utility pole. He alleged that the City negligently failed to inspect and maintain the brake lines.

PROCEDURAL HISTORY

Primas sued the City after he was injured when the brake line failed on a City-owned prison work-detail van. The trial court denied the City's motion for summary judgment. The Court of Appeals reversed, concluding that sovereign immunity barred the claim because maintenance and inspection of the brake line involved a discretionary act. The Supreme Court vacated the Court of Appeals' decision and remanded for application of the proper sovereign-immunity analysis.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The Court of Appeals was directed to reconsider the case under the proper municipal sovereign-immunity analysis, including whether the alleged negligence arose from the performance or nonperformance of a governmental function and applying the applicable definitions of governmental and ministerial functions.

CASES CITED

- City of Milledgeville v. Primus, 325 Ga. App. 553, 753 S.E.2d 146 (2013)
- City of Atlanta v. Mitcham, 296 Ga. 576 (2015)
- Koehler v. Massell, 229 Ga. 359, 361-362 (3), 191 S.E.2d 830 (1972)
- Heller v. City of Atlanta, 290 Ga. App. 345, 659 S.E.2d 617 (2008)
- Seay v. Cleveland, 270 Ga. 64, 66 (2), 508 S.E.2d 159 (1998)