

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Joy Ann Clark v. Board of Ed. of the County of Fayette

No. 15-1146 · No. No. 15-1146 · Decided November 10, 2016

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed summary judgment for the Fayette County Board of Education in a slip-and-fall case involving snow and ice in a school parking lot. The court held that the claim was subject to political-subdivision immunity under West Virginia Code § 29-12A-5(a)(6) because the snow and ice resulted from weather conditions rather than an affirmative negligent act by the Board. The court also rejected the petitioner's arguments that summary judgment was premature and that a special-relationship exception applied.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice Menis E. Ketchum; Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	November 10, 2016
DOCKET	No. 15-1146
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed from the Circuit Court of Fayette County's order granting the Board's motion for summary judgment and dismissing her negligence action arising from a slip-and-fall on snow and ice in a school parking lot.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. A circuit court does not abuse its discretion by denying additional discovery when the party seeking it failed diligently to pursue discovery.
PRECEDENTIAL VALUE	Memorandum decision; no substantial question of law and no prejudicial error found
PARTIES	Joy Ann Clark v. The Board of Education of the County of Fayette

TOPICS

summary judgment

municipal liability

civil procedure

standard of review

appellate procedure

PRACTICE AREAS

civil procedure

torts

municipal liability

governmental immunity

QUESTIONS PRESENTED

1. Whether the Board's motion for summary judgment was ripe when the discovery deadline had passed and Clark had not initiated discovery.
2. Whether genuine issues of material fact existed concerning an affirmative negligent act by the Board that would remove the snow-and-ice condition from statutory immunity under West Virginia Code § 29-12A-5(a)(6).
3. Whether Clark could invoke a special-relationship exception to the Board's immunity.

HOLDINGS

1. The summary judgment motion was ripe because the discovery deadline had passed, Clark had adequate time to conduct discovery but initiated none, and she submitted no affidavit justifying additional discovery.
2. The Board was immune from liability because the snow and ice resulted from weather conditions and was not affirmatively caused or placed on the parking lot by a negligent act of the Board.
3. Clark could not invoke the special-relationship exception because that exception concerns the public-duty doctrine and claims involving failure to enforce a regulatory or penal statute, whereas her claim concerned maintenance of a parking lot free from snow and ice.

KEY QUOTATIONS

“A circuit court’s entry of summary judgment is reviewed *de novo*” (at 2)

“summary judgment was not precipitously granted.” (at 3)

“the Board was entitled to immunity pursuant to West Virginia Code § 29-12A-5(a)(6).” (at 4)

FACTUAL BACKGROUND

On January 3, 2013, Joy Ann Clark went to Divide Elementary School as a 4-H leader and parent and fell on snow and ice in the school parking lot. She alleged that the Board negligently failed to plow or salt the lot and claimed serious knee injury and related damages. The record showed that the snow and ice resulted from weather conditions and was not affirmatively placed on the parking lot by the Board. Clark conducted no written discovery or depositions despite having adequate time before the discovery deadline.

PROCEDURAL HISTORY

Clark filed suit alleging that the Board negligently failed to maintain the parking lot at Divide Elementary School. After the Board conducted depositions and the discovery deadline passed, the Board moved for

summary judgment based on statutory immunity under West Virginia Code § 29-12A-5(a)(6). The circuit court found no genuine issue of material fact and granted summary judgment on October 23, 2015. The Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Aetna Casualty & Surety Co. v. Federal Insurance Co. of New York, 148 W. Va. 160, 133 S.E.2d 770 (1963)
- Hanks v. Beckley Newspapers Corp., 153 W. Va. 834, 172 S.E.2d 816 (1970)
- Powderidge Unit Owners Ass'n v. Highland Properties, Ltd., 196 W. Va. 692, 474 S.E.2d 872 (1996)
- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)
- Porter v. Grant County Board of Education, 219 W. Va. 282, 633 S.E.2d 38 (2006)
- State ex rel. Corp. of Charles Town v. Sanders, 224 W. Va. 630, 687 S.E.2d 568 (2009)
- Parkulo v. West Virginia Board of Probation and Parole, 199 W. Va. 161, 483 S.E.2d 507 (1996)