

SUPREME COURT OF OKLAHOMA

Tuffy's, Inc. v. City of Oklahoma City

212 P.3d 1158 (Okla. 2009) · No. No. 105,705 · Decided January 20, 2009

SUMMARY

The Supreme Court of Oklahoma held that Tuffy’s, Inc. and its owner had standing to seek damages for alleged financial injury to their business arising from police conduct. The court held that tortious interference with a business relationship requires bad faith and is therefore barred against a municipality under the Governmental Tort Claims Act, but that the negligence claim could proceed because the alleged conduct might have occurred within the officers’ scope of employment. The court reversed the trial court’s dismissal and remanded the case.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Kauger, J.; Edmondson, C.J.; Hargrave, J.; Opala, J.; Winchester, J.; Colbert, J.; Reif, J.; Taylor, V.C.J.; Watt, J.
JURISDICTION	Oklahoma
DECIDED	January 20, 2009
DOCKET	No. 105,705
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a trial-court order dismissing with prejudice the appellants' second amended petition for failure to state a claim, followed by affirmance by the Court of Civil Appeals; certiorari was granted by the Supreme Court of Oklahoma.
STANDARD OF REVIEW	De novo review applies to an order dismissing for failure to state a claim. The court accepts the petition's allegations and reasonable inferences as true and asks whether the allegations show beyond any doubt that the plaintiff can prove no set of facts entitling it to relief.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential.
PARTIES	Tuffy's, Inc., Ellen Cunningham v. City of Oklahoma City

TOPICS

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QUESTIONS PRESENTED

1. Whether Tuffy's and Cunningham had standing to seek damages for financial injury to their business based on alleged police misconduct affecting customers and employees.
2. Whether the Governmental Tort Claims Act immunized Oklahoma City from liability for tortious or intentional interference with a business relationship because the claim required bad faith.
3. Whether the Governmental Tort Claims Act provided blanket immunity for negligence claims arising from police officers' enforcement of the law.
4. Whether the petition sufficiently pleaded a negligence claim against Oklahoma City to survive a motion to dismiss.

HOLDINGS

1. The appellants had standing because they alleged a direct financial injury to their business and were seeking recovery for their own damages, not damages on behalf of customers or employees.
2. Oklahoma City was immune from liability for the appellants' tortious-interference claim because the tort requires intentional, malicious, wrongful, unfair, or improper conduct that necessarily involves bad faith, which falls outside the Governmental Tort Claims Act's definition of scope of employment.
3. The GTCA's law-enforcement exception does not provide blanket immunity for every claim arising from police officers' enforcement of the law; a municipality may be liable for tortious acts committed by officers within the scope of employment, including abuses of lawfully vested power.
4. The appellants sufficiently pleaded negligence against Oklahoma City because their allegations could establish a duty, breach, and proximate financial injury caused by officers' negligent removal of customers while acting within the scope of employment.

KEY QUOTATIONS

"The purpose of a motion to dismiss is to test the law that governs the claim in litigation, not the underlying facts." (1162-1163)

"To construe § 155(4) as providing blanket immunity to political subdivisions for any claim arising from law enforcement would not conform to established precedent." (1166)

"Because appellants stated a claim for which relief is legally possible, their petition was sufficient to survive a motion to dismiss." (1167)

FACTUAL BACKGROUND

Tuffy's, Inc. owned City Nights, a south Oklahoma City nightclub, and Ellen Cunningham was its president and owner. The plaintiffs alleged that Oklahoma City police officers physically and verbally attacked and harassed customers, used mace, and ordered police dogs to bite customers inside the nightclub during a November 26,

2006 incident. They alleged financial injury to the business resulting from the officers' malicious, intentional, or negligent conduct.

PROCEDURAL HISTORY

Tuffy's and Cunningham sued Oklahoma City and the Oklahoma City Police Department for intentional infliction of emotional distress, negligence, and tortious interference with a business relationship arising from alleged police misconduct at their nightclub. They dismissed the police department as a defendant, withdrew the punitive-damages request, and dismissed the emotional-distress claim, leaving negligence and tortious-interference claims against the City. The trial court dismissed both claims with prejudice, and the Court of Civil Appeals affirmed. The Oklahoma Supreme Court granted certiorari, vacated the Court of Civil Appeals opinion, reversed the trial court, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for proceedings consistent with the opinion. The Court of Civil Appeals opinion was vacated, and the trial court's dismissal was reversed; the tortious-interference claim remained dismissed, while the negligence claim could proceed.

CASES CITED

- Gens v. Casady School, 2008 OK 5, 177 P.3d 565
- Darrow v. Integris Health, Inc., 2008 OK 1, 176 P.3d 1204
- Tucker v. Special Energy Corp., 2008 OK 57, 187 P.3d 730
- Teeter v. City of Edmond, 2004 OK 5, 85 P.3d 817
- Mustain v. Grand River Dam Authority, 2003 OK 43, 68 P.3d 991
- Pellegrino v. State ex rel. Cameron University, 2003 OK 2, 63 P.3d 535
- Carswell v. Oklahoma State University, 1999 OK 102, 995 P.2d 1118
- Speight v. Presley, 2008 OK 99, 203 P.3d 173
- Fehring v. State Insurance Fund, 2001 OK 11, 19 P.3d 276
- Nail v. City of Henryetta, 1996 OK 12, 911 P.2d 914
- Decorte v. Robinson, 1998 OK 87, 969 P.2d 358
- Parker v. City of Midwest City, 1993 OK 29, 850 P.2d 1065
- Gaylord Entertainment Co. v. Thompson, 1998 OK 30, 958 P.2d 128
- Morrow Development Corp. v. American Bank & Trust Co., 1994 OK 26, 875 P.2d 411
- Baker v. Saint Francis Hospital, 2005 OK 36, 126 P.3d 602
- Rodebush v. Oklahoma Nursing Homes, Ltd., 1993 OK 160, 867 P.2d 1241
- N.H. v. Presbyterian Church (U.S.A.), 1999 OK 88, 998 P.2d 592

- Scott v. Archon Group, L.P., 2008 OK 45, 191 P.3d 1207
- Anderson v. Suiters, 499 F.3d 1228, 1238 (10th Cir. 2007)
- McGhee v. Volusia County, 679 So. 2d 729, 733 (Fla. 1996)

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