

SUPREME COURT OF VIRGINIA

Michael Fernandez, D.D.S., Ltd. v. Commissioner of Highways

Fernandez · No. 191056 · Decided May 28, 2020

SUMMARY

The Supreme Court of Virginia affirmed the circuit court's dismissal of Michael Fernandez's claim for relocation benefits under the Virginia Relocation Assistance Act. The Court held that the Act does not create an implied private cause of action and that Fernandez had failed to exhaust the administrative review process available under VDOT regulations.

CASE DETAILS

COURT	Supreme Court of Virginia
JURISDICTION	Virginia
DECIDED	May 28, 2020
DOCKET	191056
DISPOSITION	affirmed
PROCEDURAL POSTURE	Fernandez appealed the Circuit Court of the City of Virginia Beach's order sustaining the Commissioner's demurrer to an action seeking a declaratory judgment for relocation benefits under the Virginia Relocation Assistance Act.
STANDARD OF REVIEW	On review of a demurrer, the court accepts as true all factual allegations expressly pleaded and interprets them in the light most favorable to the plaintiff; conclusions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; the order states that it shall be published in the Virginia Reports.
PARTIES	Michael Fernandez, D.D.S., Ltd., a Division of Atlantic Dental Care, PLC v. Commissioner of Highways

TOPICS

administrative law statutory interpretation exhaustion of remedies judicial review of agency action
appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Virginia Relocation Assistance Act creates an implied private cause of action for relocation payments under Code § 25.1-406.
2. Whether Fernandez could bypass the administrative review process and directly seek judicial relief for his relocation-benefits claim.

HOLDINGS

1. No private cause of action for payment of relocation expenses can be implied under Code § 25.1-406 of the Virginia Relocation Assistance Act.
2. Fernandez was required to pursue the administrative review process provided by VDOT regulations before seeking judicial review, and he failed to exhaust those remedies.

KEY QUOTATIONS

“Therefore, we hold that no private cause of action for payment of relocation expenses can be implied under Code § 25.1-406 of the VRAA.” (at 4)

“For the reasons stated, we affirm the decision of the circuit court sustaining VDOT’s demurrer.” (at 5)

FACTUAL BACKGROUND

VDOT notified Fernandez that his dental office would need to be relocated for an interstate road project and that he could receive relocation assistance. Fernandez selected a property requiring extensive renovation, later moved his practice pursuant to a consent order, and submitted a claim for \$567,278.87. VDOT approved \$35,346.68 in reimbursements and \$255 for planning time but requested additional documentation before deciding the remainder. Fernandez neither supplied the requested documentation nor pursued the administrative appeal process, instead filing suit directly against the Commissioner.

PROCEDURAL HISTORY

VDOT required Fernandez to relocate his dental office for an interstate road project. After VDOT approved some relocation expenses but requested additional documentation before deciding the balance of his claim, Fernandez did not submit the documentation or pursue the administrative appeal process. He instead sued the Commissioner of Highways in circuit court. The circuit court sustained the demurrer, concluding that the VRAA provides no private cause of action, and the Supreme Court of Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- Sweely Holdings, LLC v. SunTrust Bank, 296 Va. 367, 370-71 (2018)

- Coward v. Wellmont Health System, 295 Va. 351, 359 (2018)
- Cherrie v. Virginia Health Services, Inc., 292 Va. 309, 314-15 (2016)
- Small v. Federal National Mortgage Association, 286 Va. 119, 126 (2013)
- Lafferty v. School Board of Fairfax County, 293 Va. 354, 362 (2017)
- Werth v. Fire Companies' Adjustment Bureau, 160 Va. 845, 856-57 (1933)
- Norfolk Motor Exchange v. Grubb, 152 Va. 471, 477 (1929)
- Osher v. City of St. Louis, 903 F.3d 698, 702-03 (8th Cir. 2018)
- Delancey v. City of Austin, 570 F.3d 590, 594-95 (5th Cir. 2009)
- Clear Sky Car Wash LLC v. City of Chesapeake, 910 F. Supp. 2d 861, 875 (E.D. Va. 2012), aff'd on other grounds, 734 F.3d 438 (4th Cir. 2014)
- Norfolk Redevelopment & Housing Authority v. Chesapeake & Potomac Telephone Co. of Virginia, 464 U.S. 30, 32 (1983)
- Broadus v. Board of Supervisors, 99 Va. 370, 372 (1901)

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