

SUPREME COURT OF VIRGINIA

Melanson v. Commonwealth, 261 Va. 178

539 S.E.2d 433 (2001) · No. Record No. 000497 · Decided January 12, 2001

SUMMARY

The Supreme Court of Virginia held that mailing a notice of claim by certified mail, return receipt requested, is the exclusive method of filing a notice of claim under the Virginia Tort Claims Act. Because the claimant's certified mailing was received more than one year after her injury, her hand-delivery of the notice within the statutory period did not satisfy the Act's filing requirement. The court affirmed dismissal of the action based on sovereign immunity.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Lemons, Justice; All the Justices
JURISDICTION	Virginia
DECIDED	January 12, 2001
DOCKET	Record No. 000497
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from dismissal of a motion for judgment after the trial court sustained the Commonwealth's special plea of sovereign immunity based on failure to satisfy the Virginia Tort Claims Act notice requirements.
STANDARD OF REVIEW	The court reviewed the trial court's dismissal based on the statutory notice requirement and construed the Virginia Tort Claims Act strictly because it constitutes a limited waiver of sovereign immunity.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Virginia; precedential.
PARTIES	Mona Melanson v. Commonwealth of Virginia

TOPICS

- statutory interpretation
- torts
- negligence
- civil procedure

PRACTICE AREAS

- Virginia Tort Claims Act
- sovereign immunity
- statutory interpretation
- civil procedure

QUESTIONS PRESENTED

1. Whether certified mailing, return receipt requested, is the exclusive method for filing a notice of claim against the Commonwealth under Code § 8.01-195.6.
2. Whether timely hand-delivery or actual knowledge of the claim can satisfy the Virginia Tort Claims Act notice requirement when certified-mail receipt occurs after the statutory one-year period.

HOLDINGS

1. Certified mailing through the United States Postal Service, return receipt requested, addressed to the Director of the Division of Risk Management or the Attorney General, is the exclusive method of filing a notice of claim under the Virginia Tort Claims Act.
2. Neither timely hand-delivery nor the Commonwealth's actual knowledge of the claim satisfies the Act's notice requirement when the certified-mail notice is not received within the statutory period.

KEY QUOTATIONS

“Holding that it is, we affirm the trial court's dismissal of the motion for judgment by Mona Melanson ("Melanson") against the Commonwealth.” (261 Va. at 180, 539 S.E.2d at 434)

“Acceptance of Melanson's contention that filing is not dependent upon mailing would render the mailing requirement superfluous.” (261 Va. at 182, 539 S.E.2d at 435)

“For this Court to place any limitation on the clear and comprehensive language of the statute, or to create an exception where none exists under the guise of statutory construction, would be to defeat the purpose of the enactment and to engage in judicial legislation.” (261 Va. at 183, 539 S.E.2d at 436)

FACTUAL BACKGROUND

Melanson was injured on September 6, 1996, when a traffic sign allegedly owned and maintained by the Virginia Department of Transportation fell. On September 4, 1997, she mailed a notice of claim by certified mail, return receipt requested, to the Acting Director of the Division of Risk Management; the notice was received on September 16, 1997, more than one year after the injury. Her counsel also hand-delivered a copy to the Division of Risk Management on September 5, 1997, within the one-year period.

PROCEDURAL HISTORY

Melanson sued the Commonwealth in the Circuit Court for the City of Alexandria under the Virginia Tort Claims Act, alleging negligence by Commonwealth employees in the maintenance of a traffic sign. The Commonwealth filed a special plea of sovereign immunity, and the trial court dismissed the action because the certified-mail notice was not received within one year after the claim accrued. The Supreme Court of Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- Baumgardner v. Southwestern Va. Mental Health Inst., 247 Va. 486, 442 S.E.2d 400 (1994)
- Halberstam v. Commonwealth, 251 Va. 248, 467 S.E.2d 783 (1996)
- Commonwealth v. Zamani, 256 Va. 391, 507 S.E.2d 608 (1998)
- Town of Crewe v. Mario, 228 Va. 109, 319 S.E.2d 748 (1984)

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