

SUPREME COURT OF OKLAHOMA

Mustain v. Grand River Dam Authority

68 P.3d 991 (Okla. 2003) · No. No. 96,056 · Decided May 7, 2003

SUMMARY

The Supreme Court of Oklahoma held that the Grand River Dam Authority's collection of dock-permit fees and miscellaneous rents did not constitute commercial activity sufficient to defeat immunity under the Recreational Land Use Act. The court also held that the Authority was a state agency covered by the Governmental Tort Claims Act, which superseded other statutory liability provisions and barred recovery based on alleged deliberate, willful, or malicious conduct by its employees. The court vacated the Court of Civil Appeals' opinion and affirmed the trial court's disposition insofar as consistent with its ruling.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Opala, V.C.J.; Watt, C.J.; Hodges, J.; Lavender, J.; Hargrave, J.; Boudreau, J.; Winchester, J.; Kauger, J.; Summers, J.
JURISDICTION	Oklahoma
DECIDED	May 7, 2003
DOCKET	No. 96,056
DISPOSITION	vacated
PROCEDURAL POSTURE	Mustain sought certiorari review of the Court of Civil Appeals' affirmance of the trial court's dismissal and judgment for the Grand River Dam Authority. The Supreme Court treated the trial court's disposition as summary adjudication and reviewed the summary relief issues de novo.
STANDARD OF REVIEW	Summary relief is reviewed de novo. Summary process is appropriate when the moving party shows no substantial controversy over material facts and the opposing party fails to demonstrate a material fact justifying trial.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential
PARTIES	Robin Mustain v. Grand River Dam Authority, David Harris Grandin

TOPICS

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QUESTIONS PRESENTED

1. Whether the Grand River Dam Authority's collection of commercial- and private-dock permit fees and miscellaneous rents constituted commercial activity that triggered the Recreational Land Use Act's exception to immunity.
2. Whether the Grand River Dam Authority was a state agency governed by the Governmental Tort Claims Act.
3. Whether the Authority's alleged deliberate, willful, or malicious conduct placed its liability outside the Governmental Tort Claims Act despite statutory authority to sue and be sued in tort.

HOLDINGS

1. The Authority's collection of commercial- and private-dock permit fees and the evidentiary showing concerning miscellaneous rents did not constitute commercial or other for-profit activity connected to the public's presence on, or free recreational use of, the lake or park premises. The commercial-activity exception to Recreational Land Use Act immunity therefore did not apply.
2. The Grand River Dam Authority is a governmental entity and state agency encompassed within the Governmental Tort Claims Act.
3. Because the Authority is governed by the Governmental Tort Claims Act, Mustain could not recover against the Authority for injuries allegedly caused by deliberate, willful, or malicious conduct of its employees.
4. The Authority's statutory power to sue and be sued in tort did not create a broader waiver of immunity or displace the Governmental Tort Claims Act. The Act is the exclusive and comprehensive scheme governing the Authority's tort liability.

KEY QUOTATIONS

“Summary relief issues stand before us for de novo review.” (68 P.3d 994)

“Commercial activity unrelated to land/water use by invited guests is not a bar to immunity.” (68 P.3d 995)

“The legislature could not have been clearer in expressing its intent that the GTCA form the sole, comprehensive plan for compensating those injured in their person or property by tortious acts of the state, a political subdivision, or of their employees.” (68 P.3d 1000)

“Because it falls under the aegis of the Governmental Tort Claims Act, it bears no liability for the willful conduct of its officials.” (68 P.3d 1000)

FACTUAL BACKGROUND

Robin Mustain was seriously injured when a personal watercraft operated by David Grandin struck a concrete cross-bar on an abandoned railroad bridge in Grand Lake at dusk. The bridge structure was visible above the water but lacked markings or warnings, and Mustain submitted expert evidence that it was a navigational hazard requiring marking and lighting. She also presented evidence that the Grand River Dam Authority collected dock-permit fees and miscellaneous rents, but she did not show that she or Grandin paid a lake-use fee or that the Authority charged user fees.

PROCEDURAL HISTORY

Mustain sued the Grand River Dam Authority and David Grandin for injuries sustained when a personal watercraft struck an abandoned railroad bridge support in Grand Lake. The trial court sustained the Authority's motion to dismiss, ruling that the statute of repose barred the claim and that the Authority's profit-related activities did not trigger the Recreational Land Use Act's commercial-activity exception. The Court of Civil Appeals affirmed, and the Supreme Court granted certiorari, vacated the Court of Civil Appeals' opinion, and affirmed the nisi prius order insofar as consistent with its opinion.

DISPOSITION

vacated

CASES CITED

- Hughey v. Grand River Dam Authority, 1995 OK 56, 897 P.2d 1138
- Boyd v. U.S. ex rel. U.S. Army Corps of Engineers, 1992 OK 51, 830 P.2d 577
- Myers v. Missouri Pacific Railroad Co., 2002 OK 60, 52 P.3d 1014
- Manley v. Brown, 1999 OK 79, 989 P.2d 448
- Russell v. Board of County Commissioners, 1997 OK 80, 952 P.2d 492
- Mahan v. NTC of America, 1992 OK 8, 832 P.2d 805
- Ducey v. United States, 713 F.2d 504 (9th Cir. 1983)
- Goodman v. Juniper Springs Canoe Rentals & Recreation, Inc., 983 F. Supp. 1384 (M.D. Fla. 1997)
- Sheldon v. Grand River Dam Authority, 1938 OK 76, 76 P.2d 355
- Vanderpool v. State ex rel. Oklahoma Historical Society, 1983 OK 82, 672 P.2d 1153
- Westinghouse Electric Corp. v. Grand River Dam Authority, 1986 OK 20, 720 P.2d 713
- Martin v. Johnson, 1998 OK 127, 975 P.2d 889
- Carswell v. Oklahoma State University, 1999 OK 102, 995 P.2d 1118
- Nail v. City of Henryetta, 1996 OK 12, 911 P.2d 914
- Henry v. Oklahoma Turnpike Authority, 1970 OK 232, 478 P.2d 898
- Culbertson v. McCann, 1983 OK 57, 664 P.2d 388
- DeGraffenreid v. Iowa Land & Trust Co., 95 P. 624, 20 Okl. 687 (1908)
- Beavin v. State ex rel. Department of Public Safety, 1983 OK 34, 662 P.2d 299
- Abbott v. Board of Trustees of Oscar Rose Junior College, 1978 OK 129, 586 P.2d 1098

- Hough v. Leonard, 1993 OK 112, 867 P.2d 438
- Wootan v. Shaw, 1951 OK 307, 237 P.2d 442
- Graham v. Keuchel, 1993 OK 6, 847 P.2d 342

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