

MICHIGAN SUPREME COURT

Beatrice Boler v. Governor

924 N.W.2d 250 (Mich. 2019) · No. SC: 158147; COA: 337383; Court of Claims: 16-000126-MK · Decided
March 29, 2019

SUMMARY

The Michigan Supreme Court denied leave to appeal from the Michigan Court of Appeals' decision concerning whether a municipality operating a waterworks plant and operating under emergency management qualifies as an arm of the state for Court of Claims jurisdiction. The order also addressed amici curiae's concerns regarding statements about whether municipal waterworks operations constitute governmental or proprietary functions under Michigan's governmental tort liability act.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Per curiam; Bridget M. McCormack; David F. Viviano; Stephen J. Markman; Brian K. Zahra; Richard H. Bernstein; Megan K. Cavanagh; Elizabeth T. Clement
JURISDICTION	Michigan
DECIDED	March 29, 2019
DOCKET	SC: 158147; COA: 337383; Court of Claims: 16-000126-MK
DISPOSITION	writ_denied
PROCEDURAL POSTURE	The Michigan Supreme Court considered an application for leave to appeal the Michigan Court of Appeals' June 14, 2018 judgment and denied review.
STANDARD OF REVIEW	Leave to appeal was denied because the Court was not persuaded that the questions presented should be reviewed.
PRECEDENTIAL VALUE	Published order denying leave to appeal; the order and concurrence provide limited substantive precedent because the Court did not grant merits review.
PARTIES	Dayne Walling, Howard Croft, Michael Glasgow, Daugherty Johnson III, City of Flint v. Beatrice Boler, Edwin Anderson, Alline Anderson, EPCO Sales, LLC, Governor, State of Michigan, Michigan Department of Environmental Quality, Michigan Department of Health and Human Services

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QUESTIONS PRESENTED

1. Whether the Michigan Supreme Court should grant leave to appeal the Court of Appeals' determination that a municipality operating a waterworks plant, and a municipality and its employees operating under emergency management, are not arms of the state for purposes of Court of Claims jurisdiction.
2. Whether the Court of Appeals' statements regarding the governmental or proprietary character of municipal waterworks operations warranted vacatur or rejection.

HOLDINGS

1. The Michigan Supreme Court denied the application for leave to appeal because it was not persuaded that the questions presented should be reviewed.
2. The Court declined to vacate any portion of the Court of Appeals' decision because that decision did not directly affect whether operation and maintenance of a municipal waterworks constitutes an exercise or discharge of a governmental function under the governmental tort liability act.

KEY QUOTATIONS

“the application for leave to appeal the June 14, 2018 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.”

“there is no basis for this Court to vacate any portion of the Court of Appeals decision suggesting otherwise.”

FACTUAL BACKGROUND

The litigation concerned whether a municipality operating a waterworks plant and a municipality and its employees operating under emergency management were arms of the state for purposes of Court of Claims jurisdiction. Amici representing major water-treatment and water-service entities argued that language in the Court of Appeals' opinion could characterize municipal waterworks operations as proprietary rather than governmental functions, potentially affecting governmental immunity under Michigan's governmental tort liability act. The Court of Appeals had not directly decided whether operating and maintaining a municipal waterworks is a governmental or proprietary function under the governmental tort liability act.

PROCEDURAL HISTORY

The Court of Claims case was assigned case number 16-000126-MK, and the Michigan Court of Appeals decided the appeal in docket number 337383. The Michigan Supreme Court denied the application for leave to appeal because it was not persuaded that the questions presented should be reviewed. Justice Zahra concurred separately regarding concerns raised by amici curiae.

DISPOSITION

writ_denied

CASES CITED

- Boler v. Governor, 324 Mich. App. 614 (2018)

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