

SUPREME COURT OF SOUTH DAKOTA

Brown Eyes v. State

2001 SD 81 (2001) · No. 21668 · Decided June 27, 2001

SUMMARY

The South Dakota Supreme Court affirmed summary judgment for the Department of Social Services and its employees in claims arising from the temporary foster-care and pre-adoptive placement of two Indian children. The court held that sovereign immunity barred the tort claims against the Department and certain officials, good-faith immunity protected the social workers, and the plaintiffs' contract damages were limited to the reimbursement terms of the placement agreements.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Gors, Circuit Judge; Miller, Chief Justice; Sabers, Justice; Amundson, Justice; Gilbertson, Justice
JURISDICTION	South Dakota
DECIDED	June 27, 2001
DOCKET	21668
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from a circuit court order granting defendants summary judgment on tort and contract claims.
STANDARD OF REVIEW	Summary judgment is reviewed to determine whether a genuine issue of material fact exists and whether the moving party is entitled to judgment as a matter of law, viewing the evidence most favorably to the nonmoving party. Sovereign immunity is reviewed de novo as a question of law.
PRECEDENTIAL VALUE	Published South Dakota Supreme Court opinion; precedential.
PARTIES	David Brown Eyes a/k/a David Brown Eyes Hostrawer, Jonette Brown Eyes a/k/a Jonette Burndine v. South Dakota Department of Social Services, James Ellenbecker, Dennis Bendt, Linda Anderson, Beverly Lafferty, JoAnna Mitchell

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QUESTIONS PRESENTED

1. Whether the Department of Social Services was protected by sovereign immunity from the Brown Eyes' tort claims.
2. Whether Department Secretary James Ellenbecker and District Manager Dennis Bendt were immune from tort claims based on the discretionary nature of their functions.
3. Whether social workers Linda Anderson, Beverly Lafferty, and JoAnna Mitchell were protected by sovereign immunity or statutory good-faith immunity for their foster-care and prospective-adoption placement activities.
4. Whether the Brown Eyeses presented a viable breach-of-contract claim for consequential expenses beyond the per-child, per-day payment provided by the placement agreements.
5. Whether summary judgment was proper on the tort and contract claims.

HOLDINGS

1. The Department was entitled to summary judgment because South Dakota had not waived its sovereign immunity by consenting to suit, purchasing liability insurance, or participating in risk-sharing.
2. Ellenbecker and Bendt were entitled to summary judgment because the plaintiffs failed to show that their supervisory functions were ministerial rather than discretionary or to identify specific facts creating a genuine issue of material fact.
3. Good-faith immunity under SDCL 26-8A-14 applies to social workers making temporary placements for foster care and eventual adoption, and the social workers were entitled to summary judgment because the record showed no improper purpose, dishonesty, or bad faith.
4. The Brown Eyeses were limited to the contractual per-child, per-day payment and could not recover their claimed adoption-preparation expenses because the agreements did not provide for additional reimbursement.

KEY QUOTATIONS

“A ministerial act envisions direct adherence to a governing rule or standard with a compulsory result. It is performed in a prescribed manner without the exercise of judgment or discretion as to the propriety of the action.” (§10)

“If the social workers did not inform Plaintiffs as quickly or as fully as they wished about the nature and effect of the jurisdictional remand, it was, at most, negligence, which is not bad faith.” (§15)

FACTUAL BACKGROUND

S.V. and T.V., Indian children affiliated with the Oglala Sioux Tribe, were placed by the Department of Social Services with David and Jonette Brown Eyes for foster care and eventual adoption. The placement occurred while the termination of the children's father's parental rights was under appeal, and a subsequent juvenile-court proceeding determined that the tribal court had exclusive jurisdiction; the children were removed after approximately three months. The Brown Eyeses claimed tort and contract damages, including more than \$31,000 in expenses associated with preparing for the adoption.

PROCEDURAL HISTORY

The Brown Eyeses sued the South Dakota Department of Social Services and several state employees after children placed in their home for foster care and eventual adoption were removed when a juvenile court determined that the tribal court had exclusive jurisdiction. The circuit court granted defendants summary judgment based on immunity and the absence of a breach of contract. The South Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Casazza v. State, 2000 SD 120, ¶8, 616 N.W.2d 872, 874
- Dakota Cheese, Inc. v. Ford, 1999 SD 147, ¶15, 603 N.W.2d 73, 76
- Julson v. Federated Mutual Insurance Co., 1997 SD 43, ¶5, 562 N.W.2d 117, 119
- Ford v. Moore, 1996 SD 112, ¶7, 552 N.W.2d 850, 852
- Bego v. Gordon, 407 N.W.2d 801, 804 (S.D. 1987)
- Hansen v. South Dakota Department of Transportation, 1998 SD 109, ¶¶9-12, 584 N.W.2d 881, 883-84
- Wilson v. Hogan, 473 N.W.2d 492, 494 (S.D. 1991)
- Kruger v. Wilson, 325 N.W.2d 851, 853 (S.D. 1982)
- High-Grade Oil Co., Inc. v. Sommer, 295 N.W.2d 736 (S.D. 1980)
- Sioux Falls Construction Co. v. City of Sioux Falls, 297 N.W.2d 454, 458 (S.D. 1980)
- Kylo v. Panzer, 535 N.W.2d 896, 902 (S.D. 1995)
- National Bank of South Dakota v. Leir, 325 N.W.2d 845, 848-50 (S.D. 1982)
- B.W. v. Meade County, 534 N.W.2d 595, 597-98 (S.D. 1995)
- Cotton v. Stange, 1998 SD 81, ¶¶11, 13, 582 N.W.2d 25, 29
- Blue Fox Bar, Inc. v. City of Yankton, 424 N.W.2d 915, 917-18 (S.D. 1988)
- Rozeboom v. Northwestern Bell Telephone Co., 358 N.W.2d 241 (S.D. 1984)

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