

SUPREME COURT OF KANSAS

Willis v. Kansas Highway Patrol, 273 Kan. 123

41 P.3d 824 (2002) · No. No. 87,173 · Decided March 8, 2002

SUMMARY

The Supreme Court of Kansas considered whether a university newspaper editor was entitled to a peremptory writ of mandamus and attorney fees after the Kansas Highway Patrol initially denied access to a fatal-accident report. The court held that the legal right to disclosure was not sufficiently clear for peremptory mandamus because of the unresolved interaction between Kansas accident-reporting statutes and the Kansas Open Records Act's criminal-investigation-records exception. It affirmed the denial of attorney fees because the agency acted in good faith and had a reasonable legal basis for withholding the report.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Larson, J.; Davis, J. (not participating); Brazil, S.J. (assigned)
JURISDICTION	Kansas
DECIDED	March 8, 2002
DOCKET	No. 87,173
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of appellant's motion for a peremptory order of mandamus and request for attorney fees in a Kansas Open Records Act action.
STANDARD OF REVIEW	Mandamus relief is discretionary and requires a clear legal duty and a clear right to relief; statutory construction is reviewed de novo or without limitation.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion; binding precedent in Kansas.
PARTIES	Nathan Willis, Editor, The University Daily Kansan v. Kansas Highway Patrol

TOPICS

- statutory interpretation
- civil procedure
- attorney fees
- declaratory judgment
- administrative law

PRACTICE AREAS

administrative law

civil procedure

statutory interpretation

remedies

open records

QUESTIONS PRESENTED

1. Whether the district court erred by denying a peremptory order of mandamus when it had already ordered the Kansas Highway Patrol to release the requested accident report.
2. Whether the district court erred by denying attorney fees under K.S.A. 45-222(c).

HOLDINGS

1. The denial of a peremptory order of mandamus was proper because Willis did not establish a clear right to require release of the report through that specific remedy.
2. The district court properly denied attorney fees because the record did not establish that the KHP acted in bad faith and the KHP had a reasonable basis in fact or law for denying access.

KEY QUOTATIONS

"The agency's action must both be "not in good faith" and "without a reasonable basis in fact or law" in order to grant attorney fees." (273 Kan. at 134)

FACTUAL BACKGROUND

A fatal highway accident involved a sixteen-year-old driver whose blood alcohol concentration was .15, and a criminal investigation followed. The University Daily Kansan editor requested the accident report from the Kansas Highway Patrol, which denied access under the Kansas Open Records Act's criminal-investigation-record exception. The requested document was the KDOT accident-report form, not the entire criminal-investigation file.

PROCEDURAL HISTORY

Willis requested a motor-vehicle accident report from the Kansas Highway Patrol under the Kansas Open Records Act. The KHP denied access on the ground that the report was a criminal investigation record. The district court treated the KHP's motion as one for summary judgment, ordered release of the KDOT accident report, denied peremptory mandamus because Willis's right to the report was not clear, and denied attorney fees. Willis appealed only the denial of peremptory mandamus and attorney fees; the KHP did not appeal the release order.

DISPOSITION

affirmed

CASES CITED

- Bergstrom v. Noah, 266 Kan. 847, 974 P.2d 531 (1999)
- State, ex rel., v. Paulsen, 204 Kan. 857, 465 P.2d 982 (1970)

- Babe Houser Motor Co. v. Tetreault, 270 Kan. 502, 14 P.3d 1149 (2000)
- Harris Enterprises, Inc. v. Moore, 241 Kan. 59, 734 P.2d 1083 (1987)
- Link, Inc. v. City of Hays, 268 Kan. 372, 997 P.2d 697 (2000)
- State ex rel. Stephan v. O'Keefe, 235 Kan. 1022, 686 P.2d 171 (1984)
- Mobil Oil Corporation v. McHenry, 200 Kan. 211, 436 P.2d 982 (1968)
- Kansas Bar Ass'n v. Judges of Third Judicial Dist., 270 Kan. 489, 14 P.3d 1154 (2000)
- Amalgamated Meat Cutters, Etc. v. Johnson, 178 Kan. 405, 286 P.2d 182 (1955)
- City of Junction City v. Cadoret, 263 Kan. 164, 946 P.2d 1356 (1997)
- Hamilton v. State Farm Fire & Cas. Co., 263 Kan. 875, 953 P.2d 1027 (1998)
- Southwest Anesthesia Serv., P.A. v. Southwest Med. Ctr., 23 Kan. App. 2d 950, 937 P.2d 1257 (1996)

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