

SUPREME COURT OF NEBRASKA

Great Northern Ins. Co. v. Transit Auth. of Omaha

305 Neb. 609 (2020) · No. No. S-19-913 · Decided April 17, 2020

SUMMARY

The Nebraska Supreme Court held that an amendment to Neb. Rev. Stat. § 25-1902 making certain denials of summary judgment based on sovereign immunity immediately appealable was procedural rather than substantive. Because the amendment took effect before the Transit Authority filed its notice of appeal, the Court of Appeals had jurisdiction. The court reversed the dismissal and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Freudenberg, J.; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.
JURISDICTION	Nebraska
DECIDED	April 17, 2020
DOCKET	No. S-19-913
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Metro appealed the district court's denial of its motion for summary judgment based on sovereign immunity. The Nebraska Court of Appeals dismissed the appeal as interlocutory and not from a final order. The Nebraska Supreme Court granted Metro's petition for further review.
STANDARD OF REVIEW	A jurisdictional question that does not involve a factual dispute is reviewed as a matter of law, independently of the lower court's decision.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Transit Authority of the City of Omaha, individually and doing business as Metro Area Transit v. Great Northern Insurance Company, Jessica Johnson

TOPICS

appellate jurisdiction

interlocutory appeal

statutory interpretation

standard of review

municipal law

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Nebraska Court of Appeals had jurisdiction over Metro's appeal from the August 23, 2019, order denying summary judgment based on sovereign immunity.
2. Whether the September 1, 2019, amendment to Neb. Rev. Stat. § 25-1902, which made such an order a final order, was procedural and therefore applicable before Metro filed its notice of appeal.

HOLDINGS

1. The September 1, 2019, amendment to § 25-1902 was procedural rather than substantive and was binding upon its effective date; therefore, it applied when Metro filed its notice of appeal after the amendment took effect.
2. The Court of Appeals had jurisdiction because Metro's notice of appeal was filed after the amended § 25-1902 took effect and Metro otherwise complied with the requirements for perfecting an appeal under § 25-1912.

KEY QUOTATIONS

“Thus, procedural amendments to statutes are ordinarily applicable to pending cases, while substantive amendments are not.” (613)

“We hold that the amendment to § 25-1902 which took effect September 1, 2019, was a procedural change that was binding upon its effective date.” (614)

FACTUAL BACKGROUND

Great Northern brought a subrogation action seeking compensation from Metro under the Political Subdivisions Tort Claims Act. Metro asserted that Great Northern had not complied with the Act's notice requirements and moved for summary judgment based on sovereign immunity. The district court denied the motion, reasoning that Metro was estopped from asserting immunity after its outside counsel responded to Great Northern's notice.

PROCEDURAL HISTORY

Great Northern brought a subrogation action against Metro under the Political Subdivisions Tort Claims Act. The district court denied Metro's sovereign-immunity-based summary-judgment motion on August 23, 2019, and denied reconsideration. Metro appealed on September 19, 2019. Although the Court of Appeals dismissed the appeal for lack of jurisdiction, the Nebraska Supreme Court held that an amendment to Neb. Rev. Stat. § 25-1902, effective September 1, 2019, applied to the pending case and made the order appealable.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Court of Appeals' dismissal for lack of jurisdiction and remand for further proceedings.

CASES CITED

- Green v. Seiffert, 304 Neb. 212, 933 N.W.2d 590 (2019)
- State v. Schmailzl, 248 Neb. 314, 534 N.W.2d 743 (1995)
- Fritsch v. Hilton Land & Cattle Co., 245 Neb. 469, 513 N.W.2d 534 (1994)
- Dragon v. Cheesecake Factory, 300 Neb. 548, 915 N.W.2d 418 (2018)

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