

SUPREME COURT OF ALABAMA

Alexander v. City of Bessemer

142 So. 3d 543 (Ala. 2013) · Decided October 18, 2013

SUMMARY

The Alabama Supreme Court partially granted and partially denied a petition for a writ of mandamus arising from a dispute over the City of Bessemer's refusal to pay a former city councillor's criminal-defense legal expenses. The Court held that municipal immunity barred the plaintiffs' bad-faith claim against the City. It declined to dismiss the 42 U.S.C. § 1983 racial-discrimination claim against the individual councillors because legislative immunity was not established and qualified immunity required further factual development.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Murdock, Justice; Stuart; Parker; Shaw; Main; Wise; Bryan; Moore
JURISDICTION	Alabama
DECIDED	October 18, 2013
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The City and several City councillors petitioned for a writ of mandamus directing the Jefferson Circuit Court to dismiss a bad-faith claim against the City and a 42 U.S.C. § 1983 racial-discrimination claim against the councillors. The Supreme Court of Alabama granted the petition in part and denied it in part.
STANDARD OF REVIEW	A denial of a motion to dismiss grounded on immunity is reviewable by mandamus. Mandamus is a drastic and extraordinary remedy available on immunity grounds only upon a showing of a clear legal right to the requested relief; the petitioner bears the burden of establishing that right.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	City of Bessemer, Jimmy Stephens, Dorothy Davidson, Sarah W. Belcher, Albert Soles v. Louise Alexander, White, Arnold & Dowd, P.C.

TOPICS

municipal liability

government liability

section 1983

qualified immunity

appellate procedure

PRACTICE AREAS

municipal law

civil rights

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the City is immune from Alexander and White, Arnold & Dowd's bad-faith claim seeking payment of Alexander's legal expenses.
2. Whether the City councillors were entitled to absolute legislative immunity from the plaintiffs' 42 U.S.C. § 1983 racial-discrimination claim based on their refusal to approve payment of Alexander's legal expenses.
3. Whether the City councillors were entitled to qualified immunity at the motion-to-dismiss stage on the § 1983 racial-discrimination claim.

HOLDINGS

1. The City is immune from the alleged bad-faith claim because the claim is in the nature of an intentional tort, and Ala. Code § 11-47-190 does not create an exception to municipal immunity for intentional or malicious acts.
2. The City councillors did not establish entitlement to absolute legislative immunity at the mandamus stage because the challenged refusal to pay Alexander's individual legal expenses was not shown to involve legislative facts or the establishment of a general policy.
3. The City councillors did not establish entitlement to qualified immunity in the mandamus proceeding because the fact-specific inquiry into their motivations and lawful reasons for refusing payment required consideration of matters outside the pleadings and was more appropriately addressed on summary judgment.

KEY QUOTATIONS

“A writ of mandamus is a drastic and extraordinary writ that will issue to compel a summary judgment on immunity grounds only upon a showing of a clear legal right in the petitioner to the immunity sought.” (547-548)

“Nothing in § 11—47-190, however, creates an exception to the doctrine of local-governmental immunity applicable in the present case.” (549)

“The mere fact that a potentially discriminatory decision is made through an exercise of control over the public purse does not insulate the entity making that decision from a claim that the action is administrative in nature.” (550)

“Accordingly, as noted in Part A above, the fact-specific nature of a qualified-immunity analysis ... means that the issue presented is, as a general rule, better analyzed within the framework of a summary-judgment motion rather than within that of a motion to dismiss.” (553)

FACTUAL BACKGROUND

Louise Alexander, a former Bessemer City councillor, was indicted under the Alabama Ethics Law and was acquitted after White, Arnold & Dowd represented her. Alexander and the firm alleged that the City had a policy and practice of paying legal expenses of city officials charged with crimes relating to official duties when the official was acquitted, and that the City attorney represented that Alexander's expenses would be paid after a successful outcome. The City later declined to pay Alexander's approximately \$373,000 legal bill, citing an Alabama Ethics Commission advisory opinion, while allegedly having paid the legal expenses of a similarly situated Caucasian councillor.

PROCEDURAL HISTORY

Alexander and White, Arnold & Dowd sued the City of Bessemer and several councillors in the Jefferson Circuit Court after the City declined to pay Alexander's criminal-defense legal expenses following her acquittal. The trial court dismissed most claims but allowed the bad-faith failure-to-pay claim against the City and the § 1983 racial-discrimination claim against the City councillors to proceed. The defendants then sought mandamus relief from the Supreme Court of Alabama.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The trial court was directed to dismiss the bad-faith claim against the City. The § 1983 racial-discrimination claim against the City councillors was allowed to proceed for further factual consideration, including qualified immunity at an appropriate stage.

CASES CITED

- City of Montgomery v. Collins, 355 So. 2d 1111 (Ala. 1978)
- Ex parte Simpson, 36 So. 3d 15, 22 (Ala. 2009)
- Ex parte Metropolitan Prop. & Cas. Ins. Co., 974 So. 2d 967, 972 (Ala. 2007)
- Ex parte Dickson, 46 So. 3d 468, 471 (Ala. 2010)
- Ex parte Kohlberg Kravis Roberts & Co., 78 So. 3d 959, 966 (Ala. 2011)
- Ex parte Liberty National Life Insurance Co., 825 So. 2d 758, 761-762 (Ala. 2002)
- Garner v. Covington County, 624 So. 2d 1346 (Ala. 1993)
- Home Indemnity Co. v. Anders, 459 So. 2d 836 (Ala. 1984)
- Smith v. Schulte, 671 So. 2d 1334, 1343-1344 (Ala. 1995)
- Ex parte Apicella, 809 So. 2d 865 (Ala. 2001)
- Suttles v. Roy, 75 So. 3d 90 (Ala. 2010)
- Bogan v. Scott-Harris, 523 U.S. 44, 54 (1998)
- Ellis v. Coffee County Board of Registrars, 981 F.2d 1185, 1191 (11th Cir. 1993)

- Point Properties, Inc. v. Anderson, 584 So. 2d 1332, 1335-1336, 1338 (Ala. 1991)
- Cutting v. Muzzey, 724 F.2d 259, 261 (1st Cir. 1984)
- Hughes v. Tarrant County, 948 F.2d 918, 921 (5th Cir. 1991)
- Associated Press v. Cook, 17 S.W.3d 447, 460 (Tex. App. 2000)
- Trevino v. Gates, 23 F.3d 1480, 1482 (9th Cir. 1994)
- O'Brien v. City of Greers Ferry, 873 F.2d 1115 (8th Cir. 1989)
- Owen v. City of Independence, 445 U.S. 622 (1980)
- Tenney v. Brandhove, 341 U.S. 367 (1951)
- Harlow v. Fitzgerald, 457 U.S. 800, 806, 818 (1982)
- Rioux v. City of Atlanta, 520 F.3d 1269, 1282-1283 (11th Cir. 2008)
- McMillian v. Johnson, 88 F.3d 1554, 1562 (11th Cir. 1996)
- Lassiter v. Alabama A&M University, 28 F.3d 1146, 1149 (11th Cir. 1994)
- Williams v. Consolidated City of Jacksonville, 341 F.3d 1261, 1268 (11th Cir. 2003)
- Foy v. Holston, 94 F.3d 1528, 1534 (11th Cir. 1996)
- Mt. Healthy City School District Board of Education v. Doyle, 429 U.S. 274, 286-287 (1977)
- Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252, 269-271 & n.21 (1977)
- Stockman v. Echlin, Inc., 604 So. 2d 393, 394 (Ala. 1992)
- Chavers v. National Security Fire & Casualty Co., 405 So. 2d 1 (Ala. 1981)
- Minton v. St. Bernard Parish School Board, 803 F.2d 129, 133 (5th Cir. 1986)