

Norris v. Town of Trumull et al. (AC 40094)

Brief Summary: The minor plaintiff was enrolled at a school for children with special needs. She was injured when she had a seizure in the school parking lot. She was not wearing her gait belt at the time, despite the staff being aware that she always needed to wear it. The court held that regional educational service centers, established pursuant to General Statutes § 10-66a, are not entitled to sovereign immunity.

Background

On April 25, 2013, the minor plaintiff was enrolled at a school for children with special needs. The school was operated by the defendant, a regional educational service center established pursuant to § 10-66a. The staff was aware that the minor plaintiff needed to wear a gait belt at all times for her safety. The minor plaintiff was participating in an activity being run and monitored by the school. She was walking with a staff member in the school's parking lot without her gait belt on when she suffered a seizure and fell to the ground, striking her face. Her mother then filed a negligence action against the defendants, alleging that the fall was due to the defendant's carelessness and negligence by failing to properly supervise and ensure the safety of students in its care. The defendant filed a motion to dismiss, arguing that as a regional educational service center created pursuant to § 10-66a, it is a state agent and, therefore, has sovereign immunity in an action for money damages absent a proper waiver of sovereign immunity. The trial court concluded that the defendant was not entitled to sovereign immunity and denied the defendant's motion.

Issue

The sole issue on appeal was whether a regional educational service center established, pursuant to General Statutes § 10-66a, by four or more municipal boards of education is entitled

to invoke sovereign immunity in a negligence action brought by a special needs student injured while attending a school operated and managed by the regional educational service center.

Holding

The court held that regional education service centers are not entitled to sovereign immunity, thus, affirming the trial court's denial of the defendant's motion to dismiss.

Discussion

Sovereign immunity protects states from liability for its alleged wrongs. This protection extends to agents of the state acting on the state's behalf. There are eight elements to determine whether a corporate entity is an agent of the state entitled to sovereign immunity. The elements are whether: (1) the state created the entity and expressed an intention in the enabling legislation that the entity be treated as a state agency; (2) the entity was created for a public purpose or to carry out a function integral to state government; (3) the entity is financially dependent on the state; (4) the entity's officers, directors or trustees are state functionaries; (5) the entity is operated by state employees; (6) the state has the right to control the entity; (7) the entity's budget, expenditures and appropriations are closely monitored by the state; and (8) a judgment against the entity would have the same effect as a judgment against the state. An entity does not need to satisfy each element. Rather, each factor is considered cumulatively. Consequently, the court went through each factor to resolve the issue in the case.

To determine first element, the court looked at whether the defendant was created by legislation and whether such legislation included language indicating that the defendant is to be treated as a state agency. A regional education center, like the defendant, is authorized by General Statutes §§ 10-66a through 10-66t. Section 10-66a provides that: "a regional educational service center *may be established* in any regional state planning area designated in accordance

with section 16a-4a upon approval by the State Board of Education of a plan of organization and operation submitted by four or more boards of education for the purpose of cooperative action to furnish programs and services.” Based on the statute’s language, the court concluded that the defendant was not created by legislation, rather, the legislation authorizes boards of education to join and create such entities.

The defendant focused on the language in subsection (a) of § 10-66c stating that “the board of a regional educational service center shall be a public educational authority acting on behalf of the state of Connecticut.” The defendant argued that “acting on behalf of the state” can only mean acting as an agent of the state. However, the court rejected this argument because an entity may act on behalf of the state for some purposes and not others. Furthermore, the plaintiff noted that the “acting on behalf of the state” language was added in 1987, at the same time the legislature added subsections (b) through (d), granting regional educational service centers the power to issue bonds, notes or other obligations. Because the Internal Revenue Code excludes interest made on any state issued bonds from gross income, the court stated that it is reasonable to assume that the legislature intended to designate regional educational service centers as “acting on behalf of the state” in order to allow them to reap the benefit of selling tax free bonds.

Additionally, the court stated that the defendant’s argument failed to account for language in the statute designating regional educational service centers as a “body corporate and politic.” The court interpreted this language as indicating that the legislature’s intention was to create a corporate entity that is separate and distinct from state government. Next, the court looked at the language that follows the “acting on behalf of the state language.” It states that regional educational service centers have “the power to sue and be sued.” The court noted that if the legislature intended for sovereign immunity to apply it would not have expressly authorized

lawsuits in the statute. Thus, the court concluded that the defendant failed to demonstrate that it was created by the state or intended to be treated as a state agency.

Next, the court looked at whether the defendant was created for a public purpose or to carry out a function integral to state government. The court stated that authorizing the formation of regional educational service centers was intended to provide local school boards with a tool to more effectively and efficiently fulfill this state function. Thus, concluding that this element favors the defendant because providing education is an integral state function.

The third factor is whether the defendant is financially dependent on the state. Due to block grants, each municipality receives funds from the state for the purpose of discharging the educational requirements of its residents and that some of this money flows to the regional educational service centers. The court viewed such indirect state funding as insufficient to conclude that service centers are financially dependent on the state. Furthermore, the defendant made no effort to demonstrate the extent in which it relies on such funds. Thus, the court concluded that the third factor weighs in favor of the plaintiffs.

Next, the court addressed the fourth and fifth factors, whether the defendant's officers, directors, or trustees are state functionaries and whether the defendant is operated by state employees, together. First, the court looked at the defendant's constitution and bylaws, noting that articles II and III make clear that it is governed by a representative council that is made up of members from its constituent local boards of education. Under article VI, officers are chosen annually from the members of the representative council. Thus, nobody from the state Board of Education or any other state functionary are officers of the defendant or involved in the defendant's programs or services. Therefore, factors four and five favored the plaintiff.

Next, the court addressed the sixth and seventh factors, whether the state has the right to control the defendant or whether the defendant's budget, expenditures, and appropriations are closely monitored by the state. The court noted that there was nothing on the record suggesting that the state has any direct oversight or control over the defendant, its property, or finances other than conducting an annual audit. Thus, the court concluded that due to the lack of state involvement, the sixth and seventh factors weight strongly against the defendant.

Finally, the court addressed whether a judgment against the defendant would have the same effect as a judgment against the state. The court noted that damages assessed against the defendant would become an operating expense paid by the municipalities in accordance with Article IX of its constitution. Thus, it would not have the same effect as a judgment against the state because a judgment against the state would mean the state itself is responsible for paying the damages.

The court concluded that the trial court properly denied the defendant's motion to dismiss as seven of the eight factors favored a ruling that the defendant was not an agent of the state entitled to sovereign immunity.

This case elucidates that regional education centers are not entitled to sovereign immunity. Thus, people are protected from injuries they may suffer at a school owned and operated by regional education centers caused by the staff's negligence.