

*Christian Perez Et Al. v. University of Connecticut (AC 38829)*

The plaintiff brought this action seeking damages from the defendant for their alleged negligence resulting in the plaintiff sustaining injuries as a result of slipping and falling on the University of Connecticut campus. The claims commissioner denied the plaintiff's claim. However, the General Assembly authorized the plaintiff to bring the action under General Statute §4-159(b)(1)(B)(ii). In response, the state filed a motion to strike the matter on the ground that §4-160(f) stipulates that such actions are to be tried to the court without a jury. The matter was subsequently tried to the court. The court rendered judgment for the defendant. The plaintiff appealed.

The issue presented to the Appellate Court in this appeal is whether the trial court properly granted the defendant's motion to strike the plaintiff's action from the jury list. Specifically, the Court was charged with determining whether the plaintiff had a right to a jury trial for his negligence claim against the defendant. The Court determined that the plaintiff did not have such a right and found that the trial court acted properly in granting the defendant's motion to strike the plaintiff's action from the jury list. In reaching this conclusion, the Court first considered the plaintiff's claim that he had a right to a jury trial under article first §19 of the Connecticut constitution. The Court found this argument unpersuasive. The Court reasoned that in order for the plaintiff to be entitled to a jury trial under the Connecticut constitution, the cause of action brought by the plaintiff must be the same or similar to an action which could have been tried to a jury in 1818. The action must also be brought against a defendant who was suable under the common law in 1818. In the present case, the plaintiff is seeking damages against the state. Under the 1818 common law, the state was entitled to sovereign immunity and therefore could not be sued without their consent. Based on this common law principle, the plaintiff has

failed to establish that he would have been able to sue the defendant in 1818. In light of this failure, the Connecticut constitution does not afford the plaintiff a right to a jury trial.

The Court also rejected the plaintiff's argument that he is entitled to a jury trial under the Connecticut constitution because a litigant was able to bring a claim against a municipality under the common law prior to 1818. The plaintiff argued that he was therefore entitled to a jury trial in the present case. The Court rejected this argument. The Court reasoned that the state and a municipality are two fundamentally different entities and are not interchangeable under the common law. In the present case, the defendant is suing the state, not a municipality. A municipality's ability to be sued without its consent does not transfer to the state. The Court found that the state maintains its sovereign immunity. The state therefore could not have been sued under the common law in 1818 without its consent, meaning the plaintiff is not afforded a constitutional right to a jury trial in the present case.

The Court next looked to the plaintiff's claim that he had a right to a jury trial under §4-159(c) and §4-160(c). The plaintiff claimed that these statutes mandate that a litigant who is granted permission by the General Assembly to bring an action against the state under §4-159 has the same rights as a litigant who brought an action against a private person. The Court found this argument unpersuasive. The Court first noted that in passing §4-159(c), the legislature did not intend to grant litigants in such cases an absolute right to a jury trial. The Court noted that a litigant is not afforded the right to a jury trial under §4-159, as the statute has no such stipulation and contains no mention of a litigant's right to a jury trial.

The Court additionally noted that the plaintiff's claim was further undermined by the fact that other subsections of §4-159 expressly provide that actions brought against the state pursuant to §4-159 will be tried to the court. The plaintiff's argument that they are entitled to a jury trial

would be an unreasonable interpretation of the statute and against the plain language set forth in §4-159. The Court determined that the plain language of the statute mandates that actions brought against the state pursuant to §4-159 must be tried to the court, not to a jury.

The Appellate Court found that the trial court acted properly in trying the matter to the court rather than a jury. The appellate Court affirmed the decision of the trial court.