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Barber v. State

Supreme Court of Nebraska - April 19, 2024 - N.W.3d - 316 Neb. 398 - 2024 WL 1694663

Inmate brought negligence action against State pursuant to the State Tort Claims Act (STCA), alleging that Department of Correctional Services' (DCS) staff negligently subjected him to an involuntary medication order (IMO) and injected him with antipsychotic medication against his will.

The District Court dismissed for lack of subject matter jurisdiction. Inmate appealed.

The Supreme Court held that:

- Inmate's claim of medical treatment without consent presented a claim of battery, and
- STCA's exception to waiver of sovereign immunity for claims arising out of a battery applied.

Inmate's claim that Department of Correctional Services' (DCS) staff injected him with antipsychotic medication against his will pursuant to an involuntary medication order (IMO) presented a claim of "battery," for purposes of the intentional tort exception to the State's waiver of sovereign immunity under the State Tort Claims Act (STCA); claim alleged medical treatment without consent.

Inmate's claim that Department of Correctional Services' (DCS) staff negligently subjected him to an involuntary medication order (IMO) and injected him with antipsychotic medication against his will was a claim that arose out of an alleged battery and, thus, the intentional tort exception to State's waiver of sovereign immunity under State Tort Claims Act (STCA) applied to bar inmate's claim; gravamen of inmate's complaint was that the acts or omissions of DCS staff in administering medication against his will resulted in his personal injury.