

Bond Case Briefs

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City of Tupelo, Mississippi v. McMillin

Supreme Court of Mississippi - April 14, 2016 - So.3d - 2016 WL 1459101

Property owners brought action against city under Mississippi Tort Claims Act (MTCA) based on city permit manager's error in handling withdrawal of one licensed contractor and mistakenly substituting name of another licensed contractor. Following bench trial, the Circuit Court awarded damages to owners but denied owners' request for attorney fees. Parties appealed.

The Supreme Court of Mississippi held that:

- City was immune from liability, and
- City did not waive statute of limitations as a defense.

City was immune from liability in homeowners' Mississippi Tort Claims Act (MTCA) action arising from city permit manager's error in handling withdrawal of one licensed contractor and mistakenly substituting name of another licensed contractor when, in actuality, a licensed contractor was not working on home. City did not violate any duty, permit manager's clerical error did not rise to level of arbitrary and capricious behavior, and city did not know that replacement contractor was not licensed and did not have valid permit while construction was ongoing.

City did not waive statute of limitations as a defense to property owners' action under Mississippi Tort Claims Act (MTCA) arising from city permit manager's error in handling withdrawal of one licensed contractor and mistakenly substituting name of another licensed contractor when, in actuality, a licensed contractor was not working on home. Permit manager's incorrect listing of residence's contractor and her subsequent actions, including memos placed in permit file, were result of mistaken belief, and there was no proof that city or permit manager knew or had reason to know that its actions or inactions would result in property owners' claims or suits being barred by statute of limitations.