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ANTITRUST AND TRADE REGULATION - VIRGINIA

Western Star Hospital Authority Inc. v. City of Richmond, Virginia

United States Court of Appeals, Fourth Circuit - January 19, 2021 - F.3d - 2021 WL 162023

Bidder selected to provide nonemergency medical transportation services to Veteran's Administration Medical Center, conditioned on obtaining permit from city to operate emergency medical services (EMS) vehicles, brought action against city and city ambulance authority for violations of the Sherman Antitrust Act and the Supremacy Clause of the United States Constitution.

The United States District Court dismissed the case with prejudice, and bidder appealed.

The Court of Appeals held that:

- City and city ambulance authority enjoyed Parker doctrine immunity from federal antitrust liability for anticompetitive conduct;
- City and city ambulance authority were not subject to the active state supervision requirement for nonsovereign actors; and
- The Supremacy Clause was not implicated by city's conduct in denying application for permit to operate emergency medical services (EMS) vehicles.

City and city ambulance authority enjoyed Parker doctrine immunity from federal antitrust liability for anticompetitive conduct, and thus, federal law did not preempt their actions in denying applicant a permit to operate emergency medical services (EMS) vehicles; the Virginia legislature expressly conferred broad authority on local governing bodies to engage in anticompetitive conduct in the EMS vehicle services market.

City and city ambulance authority asserting state action immunity from federal antitrust claims were not subject to the active state supervision requirement for nonsovereign actors; municipalities, and substate governmental entities like the ambulance authority, had less of an incentive to pursue their own self-interest under the guise of implementing state policies, and, unlike private parties, were exposed to public scrutiny and checked by the electoral process.

Supremacy Clause was not implicated by city's conduct in denying applicant a permit to operate emergency medical services (EMS) vehicles; applicant alleged that city's conduct conflicted with the Competition in Contracting Act (CICA), because without the permit, applicant's bid to provide nonemergency medical transportation services would not be accepted by the Veteran's Administration (VA) Medical Center, but the VA repeatedly made clear, both when it initially requested quotes and when it conditionally selected applicant's bid that there would be no contract unless it first obtained a permit from the City.