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DeKalb County v. Stanley

Court of Appeals of Georgia - September 24, 2021 - S.E.2d - 2021 WL 4350039

Visually impaired pedestrian brought action against county and director of its public works transportation division asserting claims for negligence, nuisance, and violation of Title II of Americans with Disabilities Act (ADA) after she tripped and fell in hole on sidewalk.

The trial court dismissed pedestrian's claims for negligence and nuisance on ground of sovereign immunity, but denied county's motion for summary judgment on ADA claim. Parties appealed.

The Court of Appeals held that:

- Pedestrian failed to establish deliberate indifference required to support her claim for compensatory damages under Title II of ADA;
- Sovereign immunity barred negligence claim; and
- Sovereign immunity barred nuisance claim.

County's lack of sidewalk inspection procedure and its failure to repair hole in sidewalk until eight months after it received actual knowledge of its existence did not demonstrate deliberate indifference required to support visually impaired pedestrian's claim for compensatory damages under Title II of Americans with Disabilities Act (ADA) after she tripped and when she fell into hole, absent evidence that county eschewed sidewalk repair policy in order to discriminate against persons with disabilities, that it received numerous and repeated complaints about problems with its sidewalks to which it did not respond or intentionally ignored, or that county official with substantial supervisory authority had actual knowledge of hole prior to accident.

Sovereign immunity barred negligence claim brought against county by visually impaired pedestrian who was injured after she tripped and fell into hole in sidewalk, even if proper maintenance of sidewalk was ministerial duty, rather than governmental function.

Sovereign immunity barred nuisance claim brought against county by visually impaired pedestrian who was injured after she tripped and fell into hole in sidewalk.