
IMMUNITY - VIRGINIA

Patterson v. City of Danville

Supreme Court of Virginia - July 7, 2022 - S.E.2d - 2022 WL 2517205

Inmate's estate brought action against city jail physician, alleging that physician committed medical malpractice by failing to provide appropriate care to inmate, who died a few months after suffering from cardiac arrest in jail.

Danville Circuit Court granted physician's plea in bar to estate's negligence claim and granted physician's demurrer to estate's gross negligence claim. Estate appealed.

The Supreme Court held that:

- Physician was entitled to derivative sovereign immunity, and
- Physician's conduct did not rise to level of gross negligence.

Provision of constitutionally and statutorily required medical care to inmates at city jail involved exercise of powers and duties of a government conferred by law on the municipality, so as to qualify as a governmental function subjecting the city to sovereign immunity from tort liability arising therefrom, for purposes of determining jail physician's derivative sovereign immunity, as a municipal employee, from medical negligence claim alleging that physician failed to provide appropriate care to inmate who died a few months after suffering from cardiac arrest in the jail.

City jail physician was entitled to derivative sovereign immunity from inmate's estate's medical negligence claim arising from allegations that inmate died after suffering from cardiac arrest at jail, for which physician failed to provide appropriate care; physician's city employer had constitutional and statutory duty to provide medical care to incarcerated patients and chose physician as its agent to fulfill that duty, all of the allegations in the complaint involved discretionary, not ministerial, medical decisions made by physician, and city had great measure of control over physician, as he had no control over patients he was obligated to treat, he did not bill inmates for his services, he was required to treat inmates at the jail using city-owned equipment and supplies, and he was subject to supervision of jail director.

Inmate's estate's allegations of jail physician's medical malpractice concentrated on physician's inadequacy in treating inmate, who died a few months after suffering from cardiac arrest in jail, not a heedless and palpable violation of legal duty by a physician who refused to show even slight diligence or scant care, and thus, the allegations did not rise to level of gross negligence that would pierce physician's derivative sovereign immunity defense; complaint provided long list of medical tests and treatments that inmate received and alleged that physician misdiagnosed inmate, but physician's multiple efforts to treat inmate, whether or not negligently performed, demonstrated that physician was exercising some degree of care in his capacity as a physician.

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