
IMMUNITY - NORTH CAROLINA

Providence Volunteer Fire Department, Inc. v. Town of Weddington

Supreme Court of North Carolina - August 19, 2022 - S.E.2d - 2022 WL 3570915 - 2022-NCSC-100

Volunteer fire department brought action against town, its mayor, and rival fire department alleging breach of contract, fraud in inducement and actual fraud, deprivation of property and liberty without due process, and tortious interference with contract.

The Superior Court denied town's and mayor's motions to dismiss fraud-related claims, and they appealed. The Court of Appeals reversed and remanded. Fire department's request for discretionary review was granted.

The Supreme Court held that:

- Town was entitled to governmental immunity from liability for alleged fraud in connection with its sale and lease-back agreement involving fire station;
- As matter of first impression, legislative immunity is recognized bar to claims against North Carolina public officials; and
- Mayor was entitled to legislative immunity from liability for fraud-related claims arising from contracts' termination.

Activities in which town was engaged in course of its dealings with volunteer fire department were governmental, rather than proprietary, in nature, and thus town was entitled to governmental immunity from liability for alleged fraud in connection with its sale and lease-back agreement involving fire station, despite fire department's contention that transaction was proprietary in nature; fire protection services were traditionally provided by government—either directly or through contract with private entities—for purpose of protecting safety and well-being of its residents, town did not charge fee to its residents for fire protection services and did not make profit in connection with provision of such services, and agreement set out manner in which fire station would be provided.

Legislative immunity is recognized bar to claims against North Carolina public officials.

Local officials are entitled to legislative immunity from suit if (1) they were acting in legislative capacity at time of alleged incident; and (2) their acts were not illegal acts.

Mayor's actions in calling and setting agenda for town council meeting to vote to terminate town's contracts with volunteer fire department constituted legislative actions for which he was entitled to legislative immunity from liability for fraud-related claims arising from contracts' termination.

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