
POLITICAL SUBDIVISIONS - VIRGINIA

Fines v. Rappahannock Area Community Services Board

Supreme Court of Virginia - September 8, 2022 - 876 S.E.2d - 2022 WL 4099848

Patient brought action against community services board for negligent retention, negligent supervision, negligence, and vicarious liability, alleging that patient received psychological therapy through board at its facilities when he was between six and eight years old, that therapist employed by board molested him multiple times during individual counseling sessions, and that patient suffered significant mental and emotional injuries as result of the repeated sexual assaults.

Board demurred and filed plea in bar asserting sovereign immunity. The King George Circuit Court granted plea in bar. Patient appealed.

The Supreme Court held that:

- Board was not "arm" of Commonwealth entitled to sovereign immunity;
- Board was not specifically created as body corporate and politic and as political subdivision of Commonwealth, for purposes of determining whether board was municipal corporation immune from tort liability;
- Board was created to fulfill public purpose, for purposes of determining whether board was municipal corporation;
- Board only partially satisfied third factor pertinent to determination of whether board was municipal corporation, i.e., whether board had power to have common seal, to sue and be sued, to enter into contracts, to acquire, hold and dispose of its revenues, personal and real property;
- Board only partially satisfied fifth factor pertinent to determination of whether board was municipal corporation, i.e., whether board had power to borrow money and issue tax-exempt bonds;
- Question whether board was immune from tort liability involved matter of substantive law, for purposes of determining whether board was municipal corporation; and
- Board was not municipal corporation immune from tort liability.

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