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Cedarbrook Residential Center, Inc. v. North Carolina Department of Health and Human Services

Supreme Court of North Carolina - December 16, 2022 - S.E.2d - 2022 WL 17726478 - 2022-NCSC-120

Department of Health and Human Services appealed decision of Industrial Commission denying its motion to dismiss adult care home's claims under State Tort Claims Act (STCA) alleging that Department employees were negligent in inspecting and exercising regulatory authority over home.

The Court of Appeals affirmed. Department appealed.

In a case of apparent first impression, the Supreme Court held that:

- Sovereign immunity barred home's claims of negligent regulation; overruling *Nanny's Corner Day Care Center, Inc. v. North Carolina Department of Health and Human Services*, 264 N.C. App. 71, 825 S.E.2d 34;
- Department did not owe home a legal duty of care sufficient to support a claim of negligent regulation; and
- Duty of care component of a negligence claim is distinct from affirmative defense of the public duty doctrine.

Sovereign immunity barred adult care home from asserting claims under State Tort Claims Act (STCA) that Department of Health and Human Services employees were negligent in inspecting and exercising regulatory authority over home; claims rested entirely upon discretionary actions that were taken in pursuit of Department's statutory authority to regulate adult care homes, plain language of STCA precluded a finding that a state agency like Department was liable to a private party for what amounted to negligent regulation, and Administrative Procedure Act provided process by which regulated entities could challenge the lawfulness of and seek redress from allegedly unlawful regulatory actions; overruling *Nanny's Corner Day Care Center, Inc. v. North Carolina Department of Health and Human Services*, 264 N.C. App. 71, 825 S.E.2d 34.

Department of Health and Human Services did not owe adult care home a legal duty of care necessary to support claim that Department was negligent in inspecting and exercising regulatory authority over home; relevant duty of care ran to persons whom Department's regulatory actions were intended to protect rather than to home as the entity being regulated, tort law principles were ill-suited to identification of proper scope of regulatory activity, the exercise of regulatory authority by state agencies like Department generally required a level of expertise and exercise of some amount of discretion that was difficult to evaluate using a reasonable person standard, and General Assembly created a system for specific purpose of resolving disputes over validity of regulatory actions by state agencies.

While the public duty doctrine protects a state agency from liability based upon a failure to carry out a statutorily-created duty that is designed to protect the public at large rather than a specific

individual, and operates to prevent a plaintiff from establishing duty as an element of a negligence claim, the mere fact that the doctrine does not apply with respect to a particular set of facts does not, without more, determine whether the duty of care necessary to support the assertion of a negligence claim against the state agency under the State Tort Claims Act (STCA) exists in the first place.