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Rogers v. Cedar Bluff Volunteer Fire Department

Supreme Court of Alabama - August 29, 2025 - So.3d - 2025 WL 2487426

Administratrix of deceased automobile accident victim's estate brought wrongful-death action against town's volunteer fire department, county association of volunteer fire departments, and volunteer firefighter, alleging that firefighter negligently or wantonly contributed to victim's death after responding to accident scene.

In addition to entering summary judgment for association, the Circuit Court also entered summary judgment for town, determining that department was a political subdivision of town and that, therefore, town, under the Volunteer Service Act (VSA), was immune from liability for the negligence of its volunteer firefighters.

Administratrix appealed after her postjudgment motion to alter, amend, or vacate the summary judgment was denied and the circuit court had entered an order certifying its judgment as final under rule on judgment upon multiple claims or involving multiple parties. The Supreme Court dismissed the appeal. In response to stipulations filed by the parties, the Circuit Court then entered an order of pro tanto dismissal, which dismissed all claims against association, and also entered a final consent judgment in favor of administratrix and against volunteer firefighter. Administratrix appealed.

The Supreme Court held that:

- Volunteer fire department was a political subdivision of town;
- Volunteer firefighter was acting within the scope of his official functions and duties as a volunteer; and
- Even if volunteer firefighter's conduct was wanton, that did not preclude town from having immunity from the wrongful-death claim.

Volunteer fire department was a political subdivision of town and did not exist separately from town, as would support finding under Volunteer Service Act (VSA) that town was vicariously immune from liability for allegedly negligent conduct of volunteer firefighter at scene of automobile accident; department was not a separately incorporated entity, town partially funded department, department's chief reported directly to town's mayor, and state statute expressly authorized municipalities to operate and maintain volunteer fire departments.

Volunteer firefighter was acting within the scope of his official functions and duties as a volunteer when he responded to scene of automobile accident, as required for firefighter to have immunity under Volunteer Service Act (VSA) from wrongful-death claim that administratrix of deceased automobile-accident victim's estate was asserting in regard to firefighter's allegedly negligent conduct at accident scene, even though scene was outside department's service area and department had not dispatched firefighter to scene; firefighter responded to scene after hearing about accident on department-issued radio, and firefighter, after advising that efforts to resuscitate purportedly dead victim should stop, stated over radio that death had occurred.

Even if alleged failure of volunteer firefighter with town’s volunteer fire department to provide basic life support and first aid at automobile-accident scene was wanton, which would mean that he lacked immunity under Volunteer Service Act (VSA) from resulting wrongful-death claim, that did not preclude town from having vicarious immunity wrongful-death claim; town could not be liable for the wanton conduct of its servant.

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