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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G.D. Morgan, Jr., Circuit Court Judge

Appellate Case No. 2024-000200

Anthony Beasley, Individually and on Behalf of the Minor Child,
LB born 2014, Appellant,

v.

South Carolina Department of Social Services and South Carolina
Department of Children's Advocacy, Respondents.

INITIAL BRIEF OF RESPONDENTS

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STATEMENT OF THE ISSUES ON APPEAL

- I. DID THE TRIAL COURT PROPERLY RULE THAT APPELLANT'S CLAIM FOR OUTRAGE IS BARRED BY THE SOUTH CAROLINA TORT CLAIMS ACT?

- II. DID THE TRIAL COURT PROPERLY CONCLUDE THAT APPELLANT'S PRAYER FOR PUNITIVE DAMAGES IS BARRED BY THE SOUTH CAROLINA TORT CLAIMS ACT?

STATEMENT OF THE CASE

On October 4, 2023, Appellant initiated this Action asserting four causes of action against SCDSS and SCDCA: (1) simple negligence; (2) gross negligence; (3) defamation; and (4) outrage. (Compl., p. 5-8.) In his prayer for relief, Appellant seeks an award of actual and punitive damages. (Id. at 8.)

On November 20, 2023, Defendant South Carolina Department of Social Services (SCDSS) filed a motion to dismiss Appellant's Complaint pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. (Mot. of SCDSS.) On December 19, 2023, Defendant South Carolina Department of Children's Advocacy (SCDCA) also filed a motion to dismiss Appellant's Complaint pursuant to Rule 12(b)(6). (Motion of SCDCA.) In their motions, Defendants SCDSS and SCDCA argued in relevant part that: (1) Appellant's claim against Defendants SCDSS and SCDCA for outrage is barred by the South Carolina Tort Claims Act; and (2) Appellant's prayer for punitive damages against Defendants SCDSS and SCDCA is barred by Section 15-78-120(b) of the South Carolina Tort Claims Act.

On January 10, 2024, the Trial Court conducted a hearing on Defendants' motions to dismiss. (Jan. 10, 2024, Tr.) On January 16, 2024, the Trial Court issued an order granting in part and denying in part Defendants' motions to dismiss. (Jan. 16, 2024, Order.) In accordance with the South Carolina Tort Claims Act and applicable precedent, the Trial Court ruled that Appellant "is not entitled to recover for intentional infliction of emotional distress" pursuant to Section 15-78-30(f) of the Act. (Id.) The Trial Court also correctly ruled that "the South Carolina Tort Claims Act does not allow recovery for punitive damages." (Id.)

STANDARD OF REVIEW

Appellant's appeal concerns two issues: (1) the dismissal of Appellant's claim for outrage; and (2) the dismissal of Appellant's prayer for punitive damages. (Br. of Appellant, p. 4.) In reviewing the dismissal of an action pursuant to Rule 12(b)(6), this Court applies the same standard of review as the trial court. Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). When deciding a motion to dismiss for failure to state a claim, the court is limited to considering whether the allegations in the Complaint, viewed in the light most favorable to the Appellant, state any valid claim for relief. Charleston Cnty. Sch. Dist. v. Harrell, 393 S.C. 552, 557, 713 S.E.2d 604, 607 (2011). Cases which present legal questions, and do not involve factual disputes, are well-suited for dispositive motions. See Madison v. Am. Home Prods. Corp., 358 S.C. 449, 451, 595 S.E.2d 493, 494 (2004) ("Where ... the dispute is not as to the underlying facts but as to the interpretation of the law, and development of the record will not aid in the resolution of the issues, it is proper to decide even novel issues on a motion to dismiss.").

ARGUMENTS

THE TRIAL COURT CORRECTLY RULED THAT APPELLANT'S CLAIM FOR OUTRAGE IS BARRED BY THE SOUTH CAROLINA TORT CLAIMS ACT

The South Carolina Tort Claims Act governs tort claims against governmental entities like SCDSS and SCDCA. The Act provides the exclusive remedy against these Defendants for a "loss" caused by a tort committed by the entity or its employees. S.C. Code Ann. § 15-78-30(f). The Act defines as loss as:

(f) "Loss" means bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in actions for negligence, **but does not include the intentional infliction of emotional harm.**

S.C. Code Ann. § 15-78-30(f) (emphasis added).

The Courts are directed to construe the Act liberally in favor of limiting the liability of the governmental entity involved. S.C. Code Ann. 15-78-200.

In his Brief, Appellant argues against not only the express language in the Act, but also against precedent, by advancing an argument expressly rejected by the South Carolina Supreme Court. Appellant tries to distinguish between intentional infliction of emotional distress and reckless infliction of emotional distress. (Br. of Appellant, p. 5.) Contrary to Appellant's argument, the Trial Court correctly ruled that Appellant cannot recover for outrage against either governmental defendant, whether based upon intentional or reckless conduct.¹

This argument has been squarely addressed and rejected by the South Carolina Supreme Court. In its recent March 27, 2024 opinion, the South Carolina Supreme Court specifically held that a claim for outrage, whether premised upon reckless or intentional infliction of emotional distress, is barred by the South Carolina Tort Claims Act. In Gore v. Dorchester Cnty. Sheriff's Off., 442 S.C. 438, 900 S.E.2d 423 (2024), the South Carolina Supreme Court addressed a certified question from the United States District Court for the District of South Carolina: "Does the bar under the South Carolina Tort Claims Act of claims of intentional infliction of emotional distress, S.C. Code Ann. § 15-78-30(f), apply to claims of reckless infliction of emotional distress?" 442 S.C. at 439, 900 S.E.2d at 424. The Court answered the question affirmatively.

¹ The tort of outrage includes both the reckless and intentional infliction of emotional distress. Gore v. Dorchester Cnty. Sheriff's Off., 442 S.C. 438, 443, n.3, 900 S.E.2d 423, 426, n.3 (2024)("When we adopted the tort of outrage in Ford in 1981, we clearly stated the tort encompassed both the reckless and intentional infliction of emotions distress."); Ford v. Hutson, 276 S.C. 157, 276 S.E.2d 776 (1981).

In its consideration, the Court noted that reckless infliction of emotional distress is merely a subset of intentional infliction of emotional distress and “there is no separate cause of action in South Carolina for the reckless infliction of emotional distress.” Id. at 440, 900 S.E.2d at 424. The Court addressed the definition of “loss” in Section 15-78-30(f), specifically noting that a claim of intentional infliction of emotional distress is expressly barred by the Act. Id. at 441, 900 S.E.2d at 425. The Court noted that “the definition of ‘loss’ ends with an exclusion prohibiting recovery not for a specific element of actual damages, **but rather for an entire cause of action—the intentional infliction of emotional distress.**” Id. at 442, 900 S.E.2d at 425 (emphasis added). The Court reasoned that because the reckless infliction of emotional distress is part of intentional infliction of emotional distress, the express statutory bar to recovery in Section 15-78-30(f) necessarily applies. Id. at 442-43, 900 S.E.2d at 425-26. Therefore, the Court held that “[t]he bar to recovery for the intentional infliction of emotional distress in section 15-78-30(f) applies to the subset of claims for the reckless infliction of emotional distress.” Id. at 443, 900 S.E.2d at 426.

Although Appellant attempts to assert a claim for outrage against SCDSS and SCDCA, that claim is expressly barred by the South Carolina Tort Claims Act as a matter of law. In accordance with the South Carolina Supreme Court’s holding in Gore and the express language of the South Carolina Tort Claims Act, the Trial Court correctly dismissed Appellant’s claim for outrage. Therefore, this Court should affirm the Trial Court’s order dismissing Appellant’s outrage claim as a matter of law.

THE TRIAL COURT CORRECTLY CONCLUDED THAT APPELLANT’S PRAYER FOR PUNITIVE DAMAGES IS BARRED BY THE SOUTH CAROLINA TORT CLAIMS ACT

Appellant inexplicably argues that he can recover punitive damages against these governmental entities. In support this argument, Appellant cites one inapplicable case, Bass v. South Carolina Dep’t of Soc. Servs., 414 S.C. 558, 780 S.E.2d 252 (2015). (Br. of Appellant, p.

8.) Bass does not support Appellant's argument. In that case, the plaintiffs initially filed their lawsuit against SCDSS and a compounding pharmacy and its pharmacist seeking actual and punitive damages. Id. at 565, 780 S.E.2d at 255. Subsequently, in May 2011, after settling with the pharmacy and the pharmacist, the plaintiffs filed an amended complaint against SCDSS alleging causes of action for gross negligence, defamation, and outrage, and "sought actual damages." Id. Although Appellant references the Bass jury verdict in his Brief, the jury did not award punitive damages. See Bass v. South Carolina Dep't of Soc. Servs., C.A. No. 2009-CP-20-0395, 2011 WL 12565683, (Fairfield Cnty, S.C. Ct. Com. Pls., May 27, 2011). Instead, the verdict stated: "We, the Jury, find for the [p]laintiffs against the [d]efendant in the amount of \$4,000,000.00 damages." (Id. at *2)

It is well-established that Appellant cannot recover punitive damages against a governmental entity under the South Carolina Tort Claims Act. Section 15-78-120(b) of the Act explicitly states that, "[n]o award of damages under this chapter shall include punitive or exemplary damages or interest prior to the judgment." S.C. Code Ann. § 15-78-120(b).

In MacMurphy v. South Carolina Dep't of Highways & Public Transportation, 295 S.C. 49, 367 S.E.2d 150 (1988), the South Carolina Supreme Court expressly reaffirmed that "in the absence of statutory authority there is no right to recover exemplary or punitive damages against a municipal corporation... or state...[.]" 295 S.C. at 51, 367 S.E.2d at 151. See Charleston Cnty. Sch. Dist. v. State Budget & Control Bd., 313 S.C. 1, 7, 437 S.E.2d 6, 9 (1993) ("No punitive damages are recoverable under the State Tort Claims Act.").

Appellant is not entitled to an award of punitive damages against either SCDSS or SCDCA. Therefore, this Court should affirm the Trial Court's ruling that Appellant's prayer for punitive damages is barred by Section 15-78-120(b) of the South Carolina Tort Claims Act.

CONCLUSION

The Trial Court correctly dismissed Appellant's claim for outrage based upon both the express language of the South Carolina Tort Claims Act and the Supreme Court's recent decision. The Trial Court also correctly concluded that Appellant's prayer for punitive damages is barred by the Act. Therefore, this Court should affirm the Trial Court's order.

July 16, 2024

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