

Rel: March 1, 2019

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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2018-2019

1170982

Ex parte Leon C. Wilson, in his official capacity as the former president of Alabama State University, and Quinton Ross, in his official capacity as the current president of Alabama State University

PETITION FOR WRIT OF MANDAMUS

(In re: Sharron Stevens and Tim Stevens

v.

Leon C. Wilson, in his official capacity as the former president of Alabama State University, and Quinton Ross, in his official capacity as the current president of Alabama State University)

(Montgomery Circuit Court, CV-18-13)

WISE, Justice.

1170982

The respondents, Sharron Stevens and Tim Stevens, sued the petitioners, Leon C. Wilson, in his official capacity as the former president of Alabama State University, and Quinton Ross, in his official capacity as the current president of Alabama State University, in the Montgomery Circuit Court.¹ The petitioners filed a motion to dismiss the claims against them on the basis that they are immune from suit pursuant to Art. 1, § 14, Ala. Const. 1901. The trial court denied the petitioners' motion to dismiss, and the petitioners filed a petition for a writ of mandamus requesting that this Court direct the trial court to enter an order dismissing the claims asserted against them. We grant the petition and issue the writ.

Facts and Procedural History

The complaint alleged that, on May 25, 2017, the Stevenses attended their daughter's graduation ceremony that was held at the Dunn-Oliver Acadome ("the Acadome") on the campus of Alabama State University. The complaint also alleged that, after the ceremony, the Stevenses were exiting the Acadome "through an exit provided for that purpose; that,

¹The complaint also included fictitiously named defendants.

1170982

as they were leaving, Sharron fell; and that Sharron suffered injuries and damages as a result of the fall. The complaint alleged that "the exit was negligently designed and negligently maintained so that it was unsafe for the purpose for which it was designed and used." Count I of the complaint alleged a negligence claim against the petitioners. Count II alleged that the petitioners had violated their duty to warn the Stevenses of dangerous conditions on the premises. Count III asserted that the petitioners had breached their duty to provide the Stevenses with a reasonably safe exit from the Acadome. Count IV asserted a claim for punitive damages. Finally, in Count V, Tim asserted a claim for loss of consortium.²

On February 6, 2018, the petitioners filed a motion to dismiss the claims against them, pursuant to Rule 12(b)(6), Ala. R. Civ. P. In their motion, the petitioners asserted that they are immune from suit pursuant to Art. I, § 14, Ala. Const. 1901. On June 13, 2018, the trial court entered an

²Apparently, at some point after the May 25, 2017, graduation ceremony at which Sharron alleges she was injured, Ross succeeded Wilson as the president of Alabama State University. The Stevenses' complaint alleges claims against both petitioners.

1170982

order denying the motion to dismiss. The petitioners then filed a petition for a writ of mandamus in this Court.

Standard of Review

""The writ of mandamus is an extraordinary legal remedy. Ex parte Mobile Fixture & Equip. Co., 630 So. 2d 358, 360 (Ala. 1993). Therefore, this Court will not grant mandamus relief unless the petitioner shows: (1) a clear legal right to the order sought; (2) an imperative duty upon the trial court to perform, accompanied by its refusal to do so; (3) the lack of another adequate remedy; and (4) the properly invoked jurisdiction of the Court. See Ex parte Wood, 852 So. 2d 705, 708 (Ala. 2002)."

"Ex parte Davis, 930 So. 2d 497, 499 (Ala. 2005). A "petition for a writ of mandamus is an appropriate means for seeking review of an order denying a claim of immunity." Ex parte Butts, 775 So. 2d 173, 176 (Ala. 2000).

""In reviewing the denial of a motion to dismiss by means of a mandamus petition, we do not change our standard of review." Ex parte Haralson, 853 So. 2d 928, 931 (Ala. 2003).

""In Nance v. Matthews, 622 So. 2d 297 (Ala. 1993), this Court stated the standard of review applicable to a ruling on a motion to dismiss:

""On appeal, a dismissal is not entitled to a presumption of correctness. The appropriate standard of review under Rule 12(b)(6) [, Ala. R. Civ. P.,] is whether, when the allegations of the complaint are viewed most strongly in the pleader's favor, it appears that the pleader could prove any set of circumstances that would entitle [it] to relief. In making this determination, this Court does not consider whether the plaintiff will ultimately prevail, but only whether [it] may possibly prevail. We note that a Rule 12(b)(6) dismissal is proper only when it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief.'

""622 So. 2d at 299 (citations omitted)."

''Knox v. Western World Ins. Co., 893 So. 2d 321, 322 (Ala. 2004).'

1170982

"Ex parte Troy Univ., 961 So. 2d 105, 107-08 (Ala. 2006)."

Ex parte State Bd. of Educ., 219 So. 3d 604, 611-12 (Ala. 2016).

Discussion

The petitioners argue that the trial court should have granted their motion to dismiss the claims against them because, they assert, they are immune from suit pursuant to Art. 1, § 14, Ala. Const. 1901.

"It is well settled law that the State is generally immune from liability under § 14, Alabama Constitution of 1901. It is also well settled that the State cannot be sued indirectly by suing an officer in his or her official capacity.

"Sovereign immunity is a jurisdictional bar that deprives a court of subject-matter jurisdiction. Ex parte Dep't of Mental Health & Mental Retardation, 837 So. 2d 808, 810-11 (Ala. 2002). The principle of sovereign immunity, set forth in Article I, § 14, Alabama Constitution of 1901, is a wall that is "nearly impregnable." Patterson v. Gladwin Corp., 835 So. 2d 137, 142 (Ala. 2002). The implications of sovereign immunity are "not only that the state itself may not be sued, but that this cannot be indirectly accomplished by suing its officers or agents in their official capacity, when a result favorable to plaintiff would be directly to affect the financial status of the state treasury." Patterson, 835 So. 2d at 142 (quoting State

Docks Comm'n v. Barnes, 225 Ala. 403, 405, 143 So. 581, 582 (1932)).'

"Ex parte Alabama Dep't of Mental Health & Mental Retardation, 937 So. 2d 1018, 1022-23 (Ala. 2006).

".....

"Section 14 immunity, however, is not always absolute; there are actions against State officials that are not barred by the general rule of sovereign immunity.

''[C]ertain actions are not barred by § 14. There are six general categories of actions that do not come within the prohibition of § 14: (1) actions brought to compel State officials to perform their legal duties; (2) actions brought to enjoin State officials from enforcing an unconstitutional law; (3) actions to compel State officials to perform ministerial acts; (4) actions brought against State officials under the Declaratory Judgments Act, Ala. Code 1975, § 6-6-220 et seq., seeking construction of a statute and its application in a given situation; (5) valid inverse condemnation actions brought against State officials in their representative capacity; and (6) actions for injunction or damages brought against State officials in their representative capacity and individually where it was alleged that they had acted fraudulently, in bad faith, beyond their authority, or in a mistaken interpretation of law. See Drummond Co. v. Alabama Dep't of Transp., 937 So. 2d 56, 58 (Ala. 2006) (quoting Ex parte Carter, 395 So. 2d 65, 68 (Ala. 1980)); Alabama Dep't of Transp. v. Harbert Int'l, Inc., 990 So. 2d 831 (Ala. 2008) (holding that the exception for

declaratory-judgment actions applies only to actions against State officials). As we confirmed in Harbert, these "exceptions" to sovereign immunity apply only to actions brought against State officials; they do not apply to actions against the State or against State agencies. See Alabama Dep't of Transp., 990 So. 2d at 840-41.'

"Ex parte Alabama Dep't of Fin., 991 So. 2d 1254, 1256-57 (Ala. 2008). In Ex parte Moulton, 116 So. 3d 1119 (Ala. 2013), this Court clarified and restated the sixth exception to § 14 immunity set forth in Drummond Co. v. Alabama Department of Transportation, 937 So. 2d 56, 58 (Ala. 2006), by holding that the exception applies only to the following:

"'(6)(a) actions for injunction brought against State officials in their representative capacity where it is alleged that they had acted fraudulently, in bad faith, beyond their authority, or in a mistaken interpretation of law, Wallace v. Board of Education of Montgomery County, 280 Ala. 635, 197 So. 2d 428 (1967), and (b) actions for damages brought against State officials in their individual capacity where it is alleged that they had acted fraudulently, in bad faith, beyond their authority, or in a mistaken interpretation of law, subject to the limitation that the action not be, in effect, one against the State. Phillips v. Thomas, 555 So. 2d 81, 83 (Ala. 1989).'

"116 So. 3d at 1141."

Ex parte Wilcox Cty. Bd. of Educ., [Ms. 1170621, December 21, 2018] ___ So. 3d ___, ___-___ (Ala. 2018).

""It is settled beyond cavil that State officials cannot be sued for damages in their official capacities. Burgoon v. Alabama State Dep't of Human Res., 835 So. 2d 131, 132-33 (Ala. 2002)."
Ex parte Dangerfield, 49 So. 3d [675,] 681 [(Ala. 2010)].'

"Ex parte Montgomery Cnty. Bd. of Educ., 88 So. 3d 837, 842 (Ala. 2012). In Vandenberg v. Aramark Educational Services, Inc., 81 So. 3d 326 (Ala. 2011), this Court stated:

"This Court has held that the immunity afforded the State by § 14 applies to instrumentalities of the State and State officers sued in their official capacities when such an action is effectively an action against the State. Lyons v. River Road Constr., Inc., 858 So. 2d 257, 261 (Ala. 2003). We have specifically "extended the restriction on suits against the State found in § 14 'to the state's institutions of higher learning' and ha[ve] held those institutions absolutely immune from suit as agencies of the State." Ex parte Troy Univ., 961 So. 2d 105, 109 (Ala. 2006) (quoting Taylor v. Troy State Univ., 437 So. 2d 472, 474 (Ala. 1983)). This § 14 bar also prohibits "actions against officers, trustees, and employees of state universities in their official capacities." Alabama Agric. & Mech. Univ. v. Jones, 895 So. 2d 867, 873 (Ala. 2004)."

Harris v. Owens, 105 So. 3d 430, 434 (Ala. 2012).

In its order denying the motion to dismiss, the trial court stated:

"Now, this case is before the Court on a Motion to Dismiss pursuant to Rule 12(b)(6), Ala. R. Civ. P. It is well settled that a motion to dismiss 'for failure to state a claim is properly granted only when it appears beyond doubt that the plaintiff can prove no set of facts entitling him to relief.' Patton v. Black, 646 So. 2d 8, 10 (Ala. 1994).

"Accordingly, the Court having considered the Motion to Dismiss filed by the Defendants and the argument of the parties on May 16, 2018, it is hereby ORDERED that the said Motion is due to be and is hereby DENIED.

"Moreover, the Court notes that after the parties have had the opportunity to conduct discovery, the Defendants will have the opportunity to return to this Court and seek a summary judgment on the ground that the defendants are entitled to immunity."

The Stevenses sued the petitioners solely in their official capacities and sought only monetary damages from the petitioners. Therefore, none of the exceptions to § 14 immunity exists in this case, and the petitioners are immune from suit as to the Stevenses' claims against them. See Ex parte Wilcox Cty. Bd. of Educ., supra; Alabama State Univ. v. Danley, 212 So. 3d 112 (Ala. 2016); Ex parte Aull, 149 So. 3d 582 (2014); and Harris, supra. Accordingly, there is no possibility that the Stevenses might possibly prevail on their claims against the petitioners. Thus, the petitioners are

1170982

entitled to a dismissal of the claims against them. See Ex parte Aull, supra.

"'If, "at any stage of the proceedings," the trial court, or this Court, "becomes convinced that [the action] is a suit against the State and contrary to Sec. 14 of the Constitution," it must dismiss the action.' Patterson[v. Gladwin Corp.], 835 So. 2d [137,] 154 [(Ala. 2002)](quoting Aland v. Graham, 287 Ala. 226, 229, 250 So. 2d 677, 678 (1971))."

Alabama Agric. & Mech. Univ. v. Jones, 895 So. 2d 867, 873 (Ala. 2004).

Conclusion

The petitioners have a clear legal right to the dismissal of the claims against them. Therefore, we grant their petition for a writ of mandamus, and we direct the trial court to vacate its June 13, 2018, order denying the motion to dismiss filed by the petitioners and to enter an order granting their motion to dismiss.

PETITION GRANTED; WRIT ISSUED.

Parker, C.J., and Bolin, Bryan, Sellers, Mendheim, Stewart, and Mitchell, JJ., concur.