

*Anthony Smith Et. Al. v. William J. Rudolph Et. Al. (SC 20008)*

The plaintiff in this case brought an action against the defendant for injuries sustained in a motor vehicle accident. The accident occurred when the plaintiff was struck by a bus, owned by the state and operated by a state employee, which went through a red light and hit the plaintiff's car. The plaintiff sustained extensive injuries and subsequently sought damages for the bus driver's alleged negligence. The plaintiff sought a jury trial for the case. The defendant moved to strike the case from the jury docket, claiming that under the relevant statute, §52- 556, the plaintiff was not entitled to a jury trial. The trial court granted the defendant's motion. The trial court then heard the case and rendered judgement in favor of the plaintiff, awarding him \$31,953.12 in damages.

The plaintiff claims that §52- 556 authorizes a trial by jury and therefore the trial court erred in granting the defendant's motion. The plaintiff argues that sovereign immunity is waived by virtue of §52- 556 and that under this statute, actions recognized at common law, such as ordinary negligence, are permitted to be brought against the state. The plaintiff contends that by including the word "negligence" in the statute, the legislature intended, implicitly, to permit the legal principles that govern common law actions, such as the right to a trial by jury, to actions arising under §52- 556. Alternatively, the defendant argues that in order for the plaintiff to be entitled to a jury trial, such a right would have to be expressly granted in the statutory language.

The issue presented to the Court in this case is "whether there is a right to a jury trial in an action brought pursuant to General Statutes §52-556, which waives sovereign immunity for claims arising from a state employee's negligent operation of a state-owned motor vehicle." The Court determined that the trial court properly granted the defendant's motion, as §52-556 does not expressly entitle the plaintiff to a jury trial. In reaching this determination, the Court first

looked to the intent of the legislature in enacting this statute. The Court reasoned that the Connecticut constitution “has been consistently construed by Connecticut courts to mean that if there was a right to a trial by jury at the time of the adoption of the provision, then that right remains intact.” Therefore, the Court must determine whether the action brought by the plaintiff is similar to one that could have been tried by a jury when the Connecticut constitution was adopted. Additionally, the action must be brought “against a defendant who was suable at common law in [1818].” In the present case, because the doctrine of sovereign immunity existed prior to the ratification of the Connecticut constitution and the defendant would not have been suable at common law in 1818, the plaintiff is not granted the right to a jury trial.

The Court further reasoned that because the statute neither expressly precluded nor expressly required the right to a jury trial, the logical conclusion is that the legislature did not intend for the action to be tried by a jury. When a state waives its right to sovereign immunity by virtue of a statute, the right to a jury trial must be “affirmatively expressed” and cannot be implicitly granted by the language of the statute. Therefore, the plaintiff’s argument that the term “negligence” reflected the legislature’s implicit intent to provide for a jury trial. Because such an intent was not explicitly stated, it cannot be construed to have been implied. The term “negligence” was meant only to establish the circumstances in which sovereign immunity has been waived and was not meant to implicitly establish a right to a jury trial. The term “negligence” in the state’s waiver of sovereign immunity does not confer onto the plaintiff all the rights he would have under an ordinary negligence claim.

Lastly, the Court addressed the plaintiff’s argument that past cases have brought claims against the state under §52- 556 and have permitted a jury trial. The Court reasoned, however, that “the mere fact that some cases brought under §52-556 have been tried to a jury does not

mean that a jury trial is authorized thereunder.” The Court further reasoned that past courts’ assumption of a right to a jury trial under §52-556 has no relevance to the case at bar. The Court found there were “no instances in which a case brought pursuant to §52-556 proceeded to a jury trial after a motion to strike the claim from the jury trial list had been filed.” Past cases brought under §52-556 and tried by a jury, with no objections, are irrelevant to the determination of this case. The Court ultimately found that §52-556 provided no right to a trial by jury and therefore the lower court did not err in granting the defendant’s motion to strike.