

CANDACE MULLINS v. STATE OF TENNESSEE
(Appellant) (Appellee)

Primary Issues

1. Whether, as a matter of law and fact, the Tennessee Claims Commission has subject matter jurisdiction to hear claims regarding the “negligent care, custody, and control of persons” under Tennessee Code Annotated section 9-8-307(a)(1), where the Department of Children’s Services (“DCS”) placed a minor child in a home, later investigated a report that the child was abused in that home, and the child was later killed?
2. Whether the State had a duty to protect the minor child?
3. Whether the Court of Appeals erred by failing to apply the doctrine of foreseeability with regard to whether the State’s conduct caused the minor child’s death?

Facts

This case arises from the death of Carlyle Mullins, the minor son of the Appellant, Candace Mullins. A few days before Carlyle’s fifth birthday, the Tennessee Department of Children’s Services (“DCS”) began an investigation after Ms. Mullins and her infant son, C.H.¹, tested positive for cocaine. On April 18, 2005, Ms. Mullins’ three sons, including Carlyle, were removed from their home and placed in foster care.

The next day, a meeting was held to consider options for the temporary placement of the children. Stephanie Hall, the case manager for Carlyle, testified that Ms. Mullins requested that the children be placed in the custody of her aunt, Lolitha Crook. Although there was discussion about Mrs. Crook’s daughter, Latara Williams, who lived with Mrs. Crook, Ms. Williams was not interviewed individually by the DCS team to determine whether she posed any threat to the children. Before the children were placed, however, a criminal background check, sex offender registry review, felon check, and TennKids and SSMS history search were performed on Ms. Williams, and nothing of concern was discovered. On April 20, 2005, a Juvenile Court entered an order placing the children in the temporary custody of Mrs. Crook.

Less than a month later, Ms. Mullins called Ms. Hall, (the case manager for DCS), to inform her that Mrs. Crook was away from home as much as twelve hours a day and that the children were being taken care of by Ms. Williams. Ms. Mullins also told Ms. Hall that Ms. Williams was mentally incapable of caring for the children. She indicated that Ms. Williams had been in Special Education classes and had once set fire to the kitchen in the Crook home. Ms. Mullins also told Ms. Hall that Carlyle had been burned while living at the Crook home, but she had not been able to figure out how the burn occurred. Ms. Hall told Ms. Mullins that she would have to call in an official referral.

On the same day that Ms. Hall received the official referral, she went to the Crook home to investigate Ms. Mullins’ claims. When Ms. Hall interviewed Carlyle, she saw scars and a bite mark on his body that looked old. Carlyle told Ms. Hall that he got the burn after accidentally bumping against a hot iron in his closet while reaching for some clothes. Ms. Hall found an iron on a closet shelf at the same level of the burn on Carlyle’s body. Ms. Hall testified at trial that she remembered asking Carlyle how he got the scars and bite marks, but neither her questions nor Carlyle’s responses were in her report. Mrs. Crook told Ms. Hall that the marks were on Carlyle when he arrived at her home. Based on that information, Ms. Hall

¹ Initials are used to protect the identity of the siblings of the deceased.

ran an online search of the TennKids database and discovered that Carlyle's mother (Ms. Mullins) had a history of physical abuse. Ms. Hall told DCS that during the interview, Carlyle walked around without any problems, answered all of her questions, and was not afraid. She claimed that if she had suspected abuse, she would not have left Carlyle at risk in the Crook home.

Ms. Hall did not interview Carlyle's older brother or Ms. Williams. Mrs. Crook told Ms. Hall that Ms. Williams had not been in Special Education classes, that Ms. Williams was a CPR-certified lifeguard, and that the kitchen fire occurred accidentally. Although Ms. Hall admitted that Ms. Williams seemed "mentally delayed," she decided that there was no support for Ms. Mullins' accusations regarding the burn on Carlyle's body and that there was no evidence that Carlyle was in immediate risk of harm. On May 17, 2005, the investigation was closed.

On May 26, 2005, Carlyle was admitted to the hospital with a serious head injury. He was pronounced dead the next day. An autopsy showed that Carlyle had small scars that looked like healing burns on his back, right shoulder, and behind both ears. He also had a mark on his back that looked like a human bite mark and multiple vertebrae in his back were fractured, which had caused severe injury to his spinal cord. It was determined that Carlyle's death was due to inflicted head trauma. Ms. Williams was arrested three months later and charged with first-degree murder and aggravated child abuse.

DCS examined Ms. Hall's investigation and found numerous violations of the Tennessee Department of Personnel Rules and Regulations. As a result, Ms. Mullins filed a claim before the Tennessee Claims Commission² alleging negligent care, custody and control by DCS under section 9-8-307(a)(1)(E) of the Tennessee Code Annotated.

Action of the Trial Court/Commissioner

At trial, the Commissioner held that the State was entitled to partial immunity for the placement of Carlyle in the Crook home because it was a Juvenile Court order that actually placed Carlyle in the home, not DCS. The Commissioner also found that the Claims Commission lacked jurisdiction (i.e., "authority") to hear any claims regarding the care of Carlyle *after* he was placed in the Crook home because at that point, he was no longer in the care, control or custody of the State, Tenn. Code Ann. § 9-8-307(a)(1)(E); and that, even if the Commission had the jurisdiction to hear Ms. Mullins' claims, they were without merit.

Court of Appeals' Decision

The Court of Appeals held that the Claims Commission had jurisdiction over Ms. Mullins' claims relating to the State's temporary placement of Carlyle *before* he was placed in the Crook home, but did not have jurisdiction over the remaining claims since Carlyle was no longer in the "care, control or custody" of the State at that time. The Court of Appeals also stated that even if the Commission did have jurisdiction to hear the case, Ms. Mullins' claim that the State was negligent was without merit.

Permission to Appeal

Ms Mullins applied for permission to appeal from the judgment of the Court of Appeals. The Supreme Court granted the application. Ms. Mullins is the Appellant because she asked for permission to appeal; thus, the State of Tennessee is the Appellee.

² The Tennessee Claims Commission is responsible for hearing claims regarding negligence by state agencies or officials.

Applicable Statutes - Negligent Care, Custody, and Control of Persons

Tennessee Code Annotated § 9-8-307(a)(1): “The commission or each commissioner sitting individually has exclusive jurisdiction to determine all monetary claims against the state based on the acts or omissions of “state employees,” . . . falling within one (1) or more of the following categories:

Tennessee Code Annotated § 9-8-307(a)(1) (E): “Negligent care, custody and control of persons. . . .”

Standard of Review for Decisions Made by Individual Claims Commissioners

On appeal, decisions by the Claims Commission are reviewed under the standard of review for non-jury cases found in Rule 13(d) of the Tennessee Rules of Appellate Procedure. As a result, findings of fact are reviewed “de novo with a presumption of the correctness, unless the preponderance of the evidence is otherwise.”

Appellant’s (Candace Mullins) Argument

Issue #1: Ms. Mullins argues that DCS exercised some form of control over Carlyle, even if he was not under the State’s direct care, custody and control at the time of his death, because DCS had a statutory duty to investigate the claims of child abuse and/or neglect. She also argues that DCS had control over the care of her son because it was responsible for supervising Carlyle’s environment in the Crook home for the juvenile court. Ms. Mullins declares that because DCS was required to actively supervise Carlyle’s temporary placement, it assumed a duty to act when the Crook home was investigated upon the official referral. Therefore, she argues that the Claims Commission has jurisdiction to hear her claims of negligent care, custody and control by DCS under section 9-8-307(a)(1)(E) of the T.C.A.

Issue #2: Ms. Mullins argues that she should win this lawsuit because she proved that DCS was negligent. As evidence of negligence on the part of DCS, Ms. Mullins points to the DCS’s own investigative report, which revealed violations of department rules and regulations by Ms. Hall, Carlyle’s case manager. She argues that if Ms. Hall had not violated these rules and regulations, Carlyle would have been removed from the Crook home and would not have been killed by Ms. Williams.

Issue #3: Ms. Mullins argues that she proved that DCS's negligence caused her son's death. She relies on DCS's own internal report, which found that by "failing to carry out a complete investigation of all allegations in the referral," the case manager "left the Mullins children at risk of further possible abuse at the hands of the alleged perpetrator who resided in the Crook household." As Applicant points out, these findings are consistent with a finding that abuse was reasonably foreseeable. She argues that the Court of Appeals wrongly concluded that Ms. Williams, (as the person who killed Carlyle), was the sole cause of the child's death.

Appellee’s (State of Tennessee) Argument

1. The State argues that Carlyle was not in its custody, but rather, was in the care, custody and control of the Mother's aunt. In addition, the State argues that its employees were entitled to "quasi-judicial" immunity because they acted pursuant to the Juvenile Court's order of April 20, 2005, which actually placed the child.

2. The State argues that Ms. Hall did not remove Carlyle from custody and did not have the authority to remove the child. As a result, the State argues that there is no evidence that Ms. Hall assumed a duty to protect Carlyle under the facts of this case.

3. The State argues that it was not the proximate cause of the child's death because the child was killed by Ms. Williams. As the Court of Appeals stated, "even assuming that the actions of DCS were unsatisfactory, such actions were not the legal cause of Carlyle's death."