

**Case Name:** Errol Davis v. Southeastern Pennsylvania Transportation Authority et al.

**Date Decided:** June 10th, 2009

**Originally Filed in:** Pennsylvania (State)

**Decided by:** Pennsylvania Commonwealth Court (State)

**Court:** Commonwealth Court of Pennsylvania

**Judge:** Jude Butler

**Citation:** WL 2009 2424035 (Pa.Cmwltb.)

**Background:**

The Southeastern Pennsylvania Transportation Authority (SEPTA) appeals from an order of the Court of Common Pleas of Philadelphia County denying SPETA's motion for summary judgment based upon a claim of sovereign immunity and granting the partial summary judgment filed by Marjorie Goldman, Edmund Wiza, and Michael J. Maguire requesting the dismissal of SEPTA's affirmative defenses under the Eleventh Amendment, sovereign immunity, governmental immunity, and other similar defenses. Errol Davis, plaintiff, appealed from an order of the trial court granting a motion for summary judgment in favor of SEPTA. Majorie Goldman, Edmund Wiza, and Michael J. Maguire filed individual complaints against SEPTA for injuries, pursuant to FELA, sustained as a result of their employment with SEPTA.

**Issue:**

Does the Commonwealth's sovereign immunity apply to SEPTA in claims brought in Pennsylvania courts under the Federal Employers' Liability Act (FELA)?

**Overall Issues Discussed or Touched Upon in this Case:**

- *Applicability of FELA at Issue*
- *Procedural Issues - State*

**Held:**

SEPTA has a unique enabling statute which explicitly establishes SEPTA as a Commonwealth party which enjoys Commonwealth immunity. Section 1711 of the Metropolitan Transportation Authorities Act states in pertinent part, "an authority shall in no way be deemed to be an instrumentality of any city or country or other municipality engaged in the performance of a municipal function but shall exercise the public powers of the Commonwealth as an agency and instrumentality thereof". Furthermore, the Act further states that, "the intent of the General Assembly that an authority created under this chapter... shall continue to enjoy sovereign and official immunity." This Court found that SEPTA plays a substantial role in providing transportation for the area's general workforce, to and from their various places of employment, thus contributing substantially to the generation of the Commonwealth's revenue. SEPTA has the power of eminent domain and thus, because eminent domain is indicative of government function, SEPTA operates as an arm of the Commonwealth, thus it holds sovereign immunity.

Sovereign immunity, according to this Court, is only waived as a bar to suit against a Commonwealth party "for damages arising out of a negligent act where the damages would be recoverable under the common law or statute". Accordingly, this Court held that SEPTA is entitled to the Commonwealth's immunity as an arm of the Commonwealth. As a result, SEPTA is not subject to suit under FELA.

**Comments:**

SEPTA, acting as an arm of the Commonwealth was able to invoke sovereign immunity in the action filed against it pursuant to FELA. There are some exceptions not barred by sovereign immunity however, FELA does not fall under an exception. Steve Gordon  
<http://www.Gordon-Elias.com>