Due Process: No Procedural Due Process Violation for Applicant's "Self-Inflicted Delays" in Obtaining Business License

B&M Auto Salvage and Towing, LLC v. Township of Fairfield, No. 13-4266 (3d Cir. Dec. 18, 2014).

The Third Circuit has upheld a lower court ruling rejecting a procedural due process claim where the plaintiff's own inaction caused the defendant Township to delay issuing a business license, resulting in plaintiff's subsequent breach of an agreement to sell the business.

Robert and Michelle Hoffman purchased E-Z Joe's Used Auto Parts in December 2007. The couple acquired the necessary business license in March 2008, but the renewal in 2009 was delayed by Fairfield Township, in part because they paid only $150 of a $200 application fee. The Township employee responsible for transmitting the Hoffman's application to the proper state and local authorities did not notify them of problems with the paperwork and eventually took a hostile stance with them after being confronted about continuing delays. The Hoffmans asserted that, as a result of the delay, they were unable to perform under a contract to sell their business for $950,000.

The Hoffmans filed suit, claiming they were deprived of substantive and procedural due process, that Fairfield's Administrator was liable under state law for negligent retention and supervision of an employee, and that Fairfield and the Administrator tortiously interfered with the sale contract. The District Court for the District of New Jersey ruled in favor of the defendants, prompting the Hoffmans to appeal.

HELD: The Third Circuit affirmed the District Court's ruling in favor of the municipality on all counts.

DISCUSSION: Procedural due process requires the opportunity to be heard at a meaningful time and in a meaningful manner. The application process for a business license in Fairfield requires the submission of an application and a fee. The Hoffmans, the record showed, provided a check for $150, $50 short of the $200 required to process the application. According to the Court, once the balance of the fee was provided, the application was approved quickly and the Hoffmans were issued a license. According to the Court, this self-inflicted delay by the Hoffmans was not a procedural due process violation by Fairfield.

As for the negligent supervision claim, the court noted that an employer is only liable for "torts of its employees beyond the scope of the employment where the employer knew or had reason to know of the particular unfitness, incompetence or dangerous attributes of the employee, and could reasonably have foreseen that such qualities created a risk of harm to other persons." The Hoffmans argued that the lower court failed to take into consideration evidence they submitted that showed Fairfield should have known about the employee's "dangerous attributes." The court agreed with its lower counterpart that Fairfield did not have the requisite knowledge and as such, could not be held liable. As for tortious interference claim, the court noted such a claim required the Hoffmans to show that the interference alleged "caus[ed a] third person not to perform the contract." Reviewing the record, however, the Court found that it was the Hoffmans, and not the would-be purchasers, that cancelled the contract for sale before it expired. As a

result, Fairfield could not be held liable for tortious interference with the Hoffmans' contract for sale.

http://law.justia.com/cases/federal/appellate-courts/ca3/13-4266/13-4266-2014-12-18.html (last accessed Jan. 14, 2015).