

1977 WL 37262 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 7, 1977

*1 Mr. Donald E. Smith, Jr.
55-57 Spartanburg Line
Clifton, South Carolina 29324

Dear Mr. Smith:

In your letter of February 17, 1977, you state that you are teaching an Emergency Medical Technician Course in Spartanburg and inquired as to whether or not a Volunteer Rescue Squad is covered under the Good Samaritan Act.

I am enclosing herewith a copy of a memorandum prepared in this Office dated August 20, 1975, which I hope will be helpful to you.

Very truly yours,

Daniel R. McLeod
Attorney General

MEMORANDUM

August 20, 1975

The initial question is whether a fire department sponsoring an emergency medical unit is a political subdivision or an agency of a county or municipality or whether it is a voluntary association, or, in effect, an eleemosynary corporation. If the fire department is a public agency, then, as an agency of the State, it is immune from suit in tort absent statutory waiver of sovereign immunity and authorization to sue. See, 1962 Ops.Atty.Gen. at 20. Section 10-2621 of the South Carolina Code of Laws, the Governmental Motor Vehicle Tort Claims Act, is such an authorization. It provides that those injured by the negligent operation of any motor vehicle operated by an employee of a governmental entity on official business may recover actual damages up to specified limits. Thus, a local fire department could be sued for the negligent operation of its ambulance. If the injury were caused by negligent rendering of first aid at the scene, however, I believe that the fire department would not be liable in tort since there would have been no statutory authorization of liability; moreover, any waiver of sovereign immunity is to be construed strictly.

An individual driving the ambulance can be sued if his negligence causes or aggravates the injured person's injury See, Blashfield, Automobile Law and Practice § 251.2; Parker v. Adamson, 190 GA.App. 172, 135 S.E.2d 487 (1964). Furthermore, it is possible that a fireman employed by a municipality or county is not exempt from liability for rendering first aid negligently by virtue of the Good Samaritan statute. This statute, Section 46-803 of the Code, provides:

Any person, who in good faith gratuitously renders emergency care at the scene of an accident or emergency to the victim thereof, shall not be liable for any civil damage for any personal injury as a result of any act or omission by such person in rendering the emergency care or as a result of any act or failure to act to provide or arrange for further medical treatment or care for the injured person, except acts or omissions amounting to gross negligence or willful or wanton misconduct.

In interpreting a similar statute, the Alaska Supreme Court held that a police officer or similar official who is under a duty to rescue is not covered by the Good Samaritan Law. See, Lee v. State, 490 P.2d 1206 (1971).

If the fire department is a charitable organization such as a volunteer fire department or rescue unit, the organization itself is not liable in tort for negligence because of the doctrine of charitable immunity. See, 1966 Ops.Atty.Gen. No. 1966 at 14. Our Supreme Court recently reaffirm the existence of this doctrine in South Carolina. See, [Jeffcoat v. Caine](#), 216 S.C. 75, 198 S.E.2d 258 (1973). There is some question as to the liability of the individual member of the association for his own negligent acts. Opinion No. 1966 of 1966 states that members of an eleemosynary corporation are liable in tort for negligent acts. The Good Samaritan Act is not referred to in this opinion, although it was in force at the time. Another opinion from this office dated October 25, 1974, specifically states that the Good Samaritan statute exempts members of rescue squads from tort liability in the absence of gross negligence.

*2 Private ambulance services and their employees are liable for negligence, with attention to training, care, etc., of others in the emergency medical field. Sections 46-291 et seq., and Sections 32-905.31 et seq., of the Code deal with licensing, training, etc., for emergency medical services. Public charitable ambulance services are immune from suit as organizations, but their members may be liable for gross negligence and, perhaps, negligence. Public governmental ambulance services may be sued under the Tort Claims Act and their employees are liable for negligence.

1977 WL 37262 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.