

**FIRST DIVISION
BARNES, P. J.,
MARKLE and HODGES, JJ.**

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October 14, 2026

In the Court of Appeals of Georgia

A26A0896. MOULTRIE-COLQUITT COUNTY PARKS AND
RECREATION AUTHORITY v. DEKLE.

MARKLE, Judge.

After Mack Dekle was injured on a bike path maintained by the Moultrie-Colquitt County Parks and Recreation Authority (“the Authority”), he filed a negligence action. The Authority appeals from the denial of its motion to dismiss, contending the trial court erred because Dekle’s claims are barred by sovereign immunity. As set forth below, we agree and therefore reverse.

“We review de novo a trial court’s ruling on a motion to dismiss based on sovereign immunity grounds, which is a matter of law. Factual findings are sustained if there is evidence supporting them, and the burden of proof is on the party seeking the waiver of immunity.” *Young v. Johnson*, 359 Ga. App. 769, 770 (860 SE2d 82)

(2021) (quotation marks omitted). See also *McBrayer v. Scarbrough*, 317 Ga. 387, 388(1) (893 SE2d 660) (2023).

As alleged in the complaint, Dekle was driving a utility vehicle on a recreational trail maintained by the Authority. The path was intersected by the driveway of a local business. As a driver exited the business, he failed to yield and drove into the path, colliding with Dekle's vehicle and injuring him. Dekle brought claims for negligence against several defendants, including the Authority.¹ The complaint specifies that Dekle served the Authority with ante litem notice, but the notice is not attached to the pleadings.

The Authority filed a motion to dismiss, contending the claims were barred by sovereign immunity. In response, Dekle argued that the Authority's sovereign immunity was waived by the Georgia Tort Claims Act ("GTCA"). The Authority replied that, if the GTCA waived its immunity, Dekle's claims must be dismissed for failure to follow the ante litem procedures under OCGA § 50-21-26.

Following a hearing, the trial court concluded that the Authority was not immune to the claims because it does not qualify as a "department or agency" under

¹ None of the other defendants are involved in this appeal.

Article I, Section 2, Paragraph IX of the Georgia Constitution. Additionally, the trial court determined that the Authority was excluded under the provisions of the GTCA; therefore Dekle was not required to provide ante litem notice. The trial court thus denied the motion, and this appeal followed.

In its sole enumeration of error, the Authority argues that the trial court erred in denying its motion to dismiss because its enabling legislation specifically grants it immunity from tort claims. We agree.

Sovereign immunity is a jurisdictional issue and, thus, a threshold issue. *McConnell v. Dep't of Labor*, 302 Ga. 18, 19 (805 SE2d 79) (2017). “The doctrine of sovereign immunity, as enshrined in our Constitution, bars suits against the State and its employees in their official capacities unless a statute or the Constitution itself specifically waives that immunity.” *Roberts v. Cuthpert*, 317 Ga. 645, 648(2) (893 SE2d 73) (2023) (citation modified); Ga. Const. of 1983 Art. I, Sec. II, Par. IX(e) (“The sovereign immunity of the state and its departments and agencies can only be waived by an Act of the General Assembly which specifically provides that sovereign immunity is thereby waived and the extent of such waiver.”). The party asserting a

waiver of a governmental entity's sovereign immunity bears the burden of proof.

McBrayer, 317 Ga. at 392(2)(a).

Because our review necessarily requires us to construe legislation, we apply the following rules:

A statute draws its meaning from its text. Under our well-established rules of statutory construction, we presume that the General Assembly meant what it said and said what it meant. To that end, we must afford the statutory text its plain and ordinary meaning, we must view the statutory text in the context in which it appears, and we must read the statutory text in its most natural and reasonable way, as an ordinary speaker of the English language would. Though we may review the text of the provision in question and its context within the larger legal framework to discern the intent of the legislature in enacting it, where the statutory text is clear and unambiguous, we attribute to the statute its plain meaning, and our search for statutory meaning ends.

Augusta Jud. Cir. Off. of Pub. Def. v. Hodge-Peets, 370 Ga. App. 819, 826(3), n.10 (899 SE2d 363) (2024) (punctuation omitted).

The Authority's enabling legislation provides, in pertinent part:

The authority shall have *the same immunity and exemption from liability for torts and negligence as the State of Georgia*, and the officers, agents, and employees of the authority, when in performance of the work of the

authority, shall have the same immunity from liability for torts and negligence as officers, agents, and employees of the State of Georgia.

Moultie-Colquitt County Parks and Recreation Authority Act, 2017 Ga. L. 96, § 9 (H.B. 395) (emphasis added).

Affording this text its plain and ordinary meaning, this language confers on the Authority the same immunity as the state, which is granted under Article I of the Georgia Constitution. Ga. Const. of 1983, Art. I, Sec. II, Par. IX(e) (“[S]overeign immunity extends to the state and all of its departments and agencies.”). See *Hodge-Peets*, 370 Ga. App. at 826(3), n.10 (when the statutory text is unambiguous, we must read it in the most ordinary way). And, because this language — equating the Authority’s immunity from tort claims to that granted to the *state* — is unambiguous, the trial court was not required to determine whether the Authority was an “agency or department” of the state under Art. I, Sec. II, Par. IX(e). See *Hodge-Peets*, 370 Ga. App. at 826(3), n.10.

Notably, none of the cases relied on by the trial court in its analysis involved an enabling act that granted the governmental entity at issue “the same immunity and exemption from liability for torts and negligence as the State of Georgia,” as here.

2017 Ga. L. 96, § 9. See *Miller v. Ga. Ports Auth.*, 266 Ga. 586, 587 (470 SE2d 426) (1996) (concluding that the Ports Authority is a state agency based on its stated purpose in the enabling legislation); *Files v. Hous. Auth. of City of Douglas*, 368 Ga. App. 455, 458 (890 SE2d 356) (2023) (concerning a local authority that argued it was conferred sovereign immunity under the common law); *Coleman v. Classic Ctr. Auth. For Clarke County*, No. 1:06CV2947 WSD, slip op. at 3(II)(B) (N.D. Ga. Mar. 2, 2007) (2007 WL 689463) (noting that the authority at issue was “not specifically granted sovereign immunity”). The trial court thus erred by failing to first apply our rules of statutory construction. See *Augusta Press v. Roundtree*, 368 Ga. App. 64, 66(1) (888 SE2d 267) (2023) (“Simply put, when the language of a statute is plain and susceptible of only one natural and reasonable construction, courts must construe the statute accordingly. (quotation marks omitted)).

As he did below, Dekle here contends that Section 9 of the Enabling Act, *supra*, should be construed so as to waive the Authority’s immunity to tort liability under the GTCA. See OCGA § 50-21-23(a) (generally waiving the state’s sovereign immunity for the torts of its officers and employees in their official capacity).² But the General

² OCGA § 50-21-23(a) provides in its entirety:

Assembly's *grant* of immunity is not the equivalent of a *waiver* of such immunity — which must be expressly provided by statute or the Constitution. Ga. Const. of 1983 Art. I, Sec. II, Par. IX(e). See *Guy v. Hous. Auth. of the City of Augusta*, 321 Ga. 873, 876 (917 SE2d 613) (2025) (distinguishing the extension of sovereign immunity to the State's departments and agencies under Article I of the Georgia Constitution from the provision for the waiver of a municipality's sovereign immunity under Article IX). And, here, there is no such waiver of the Authority's sovereign immunity under the GTCA, as it expressly excludes local authorities from its definition of "the state." OCGA § 50-21-22(5). Dekle thus fails to carry his burden to establish a waiver of the

The state waives its sovereign immunity for the torts of state officers and employees while acting within the scope of their official duties or employment and shall be liable for such torts in the same manner as a private individual or entity would be liable under like circumstances; provided, however, that the state's sovereign immunity is waived subject to all exceptions and limitations set forth in this article. The state shall have no liability for losses resulting from conduct on the part of state officers or employees which was not within the scope of their official duties or employment.

Authority's immunity, and the trial court erred in denying the motion to dismiss. See *McBrayer*, 317 Ga. at 392(2)(a).

Judgment reversed. Hodges, J., concurs. Barnes, P. J., concurs specically.

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BARNES, Presiding Judge, concurring specially.

While I agree with the majority's ultimate conclusion that the trial court should be reversed and the case dismissed, I do not agree with all that is said by the majority and would reach the same conclusion by different reasoning. I therefore concur specially.

As noted in the majority's opinion, Section 9 of the Moultrie-Colquitt Parks and Recreation Authority Act grants the Recreation Authority "the same immunity and exemption from liability for torts and negligence as the State of Georgia," and the Act further provides that the "officers, agents, and employees of the authority, when in performance of the work of the authority, shall have the same immunity from

liability for torts and negligence as officers, agents, and employees of the State of Georgia.” 2017 Ga. L. 96, § 9 (H. B. 395). The plain language of Section 9 evinces the General Assembly’s intent to treat the Recreation Authority as a state rather than local authority for purposes of addressing its sovereign immunity to tort claims. The Georgia Tort Claims Act (“GTCA”), OCGA § 50-21-20 et seq., waives the sovereign immunity of the State for certain tort claims when its procedures are followed, and state authorities are included within the definition of the “State.”¹ Among other procedures, the GTCA imposes ante litem notice requirements with which a claimant must strictly comply. See OCGA § 50-21-26; *Moreno v. Ga. Dep’t of Transp.*, 360 Ga. App. 777, 779 (861 SE2d 630) (2021). If the claimant fails to comply, there is no waiver of sovereign immunity. See *Moreno*, 360 Ga. App. at 779. Notably, in the present case, the plaintiff does not dispute that he failed to comply with the ante litem

¹ See OCGA §§ 50-21-22 (5) (defining “State” to include “any of its ... authorities”); 50-21-23(a) (“The state waives its sovereign immunity for the torts of state officers and employees while acting within the scope of their official duties or employment and shall be liable for such torts in the same manner as a private individual or entity would be liable under like circumstances; provided, however, that the state’s sovereign immunity is waived subject to all exceptions and limitations set forth in this article....”); 50-21-23 (b) (“The state waives its sovereign immunity only to the extent and in the manner provided in this article and only with respect to actions brought in the courts of the State of Georgia....”).

notice requirements imposed by OCGA § 50-21-26. Based on his noncompliance, there has been no waiver of sovereign immunity, and the case should be dismissed. I therefore would reverse the trial court on that basis.