

SUPREME COURT OF VIRGINIA

Haynes v. Haggerty, 291 Va. 301

784 S.E.2d 293 (2016) · No. 150666 · Decided April 21, 2016

SUMMARY

The Supreme Court of Virginia held that Nancy Haynes's claims arising from alleged childhood sexual abuse accrued when the injuries occurred and that the applicable limitations period expired before the enactment of Code § 8.01-249(6). Applying Code § 8.01-256, the court concluded that the later-enacted accrual provision did not apply and affirmed dismissal of the action as time-barred.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice S. Bernard Goodwyn; Chief Justice Lemons; Justice Goodwyn; Justice Mims; Justice McClanahan; Justice Powell; Justice Kelsey; Senior Justice Lacy
JURISDICTION	Virginia
DECIDED	April 21, 2016
DOCKET	150666
DISPOSITION	affirmed
PROCEDURAL POSTURE	Haynes appealed from a final order sustaining Haggerty's plea in bar based on the statute of limitations and dismissing the action with prejudice.
STANDARD OF REVIEW	The circuit court's decision on a plea in bar based on the statute of limitations is reviewed de novo.
PRECEDENTIAL VALUE	published, precedential opinion of the Supreme Court of Virginia
PARTIES	Nancy Haynes v. Sean Arthur Haggerty, f/k/a Susan A. Haggerty

TOPICS

statute of limitations torts civil procedure appellate procedure constitutional law

PRACTICE AREAS

torts civil procedure appellate procedure constitutional law

QUESTIONS PRESENTED

1. Whether Code § 8.01-249(6), which provides a later accrual date for actions arising from childhood sexual abuse when the injury and causal connection are communicated by a qualified professional, applied to Haynes's claims.
2. Whether Code § 8.01-256 excluded application of Code § 8.01-249(6) because Haynes's causes of action existed before October 1, 1977.
3. Whether the circuit court's judgment could be affirmed under the right-result-for-the-wrong-reason doctrine without deciding the constitutional challenge to retroactive application of Code § 8.01-249(6).

HOLDINGS

1. Code § 8.01-249(6) does not apply to Haynes's claims because the causes of action existed before October 1, 1977, and Code § 8.01-256 provides that Chapter 4's limitations provisions do not apply to such causes of action.
2. The Court may affirm a correct judgment on a different legal rationale when the record supports the alternative ground, including when the rationale was not raised by a party or addressed by the trial court.
3. The Court did not decide whether retroactive application of Code § 8.01-249(6) would violate due process or impair a vested property right because the statutory issue resolved the appeal.

KEY QUOTATIONS

“In order to avoid reaching the question concerning the constitutionality of Code § 8.01-249(6) unless it is necessary to resolve this appeal, we will first consider Haggerty’s right result for the wrong reason argument.” (at 303)

“A cause of action exists when a plaintiff is injured as a result of tortious action, “and the injury need only be slight; it is immaterial that more substantial damage may occur at a later date.”” (at 304)

“Therefore, Code § 8.01-249(6) does not apply to Haynes’ claims, and the circuit court did not err in granting Haggerty’s plea in bar of the statute of limitations.” (at 305)

FACTUAL BACKGROUND

Haynes alleged that Haggerty, an adult, sexually abused her while she was a minor between 1971 and 1975. She reached the age of majority in March 1975 and was not diagnosed with dysthymic disorder, or informed by a mental-health professional that the disorder resulted from the abuse, until May 2012. Haynes filed suit in April 2014, asserting claims for sexual assault and battery, aggravated sexual assault and battery, and intentional infliction of emotional distress.

PROCEDURAL HISTORY

Haynes filed suit in the Circuit Court of Spotsylvania County in 2014, alleging sexual abuse and related tort claims arising from conduct occurring between 1971 and 1975. Haggerty filed a plea in bar asserting the statute of limitations. The circuit court sustained the plea and dismissed the action with prejudice, reasoning in part that retroactive application of Code § 8.01-249(6) would violate due process. The Supreme Court of Virginia

affirmed on the statutory ground that Code § 8.01-249(6) did not apply because the causes of action existed before October 1, 1977.

DISPOSITION

affirmed

CASES CITED

- Van Dam v. Gay, 280 Va. 457, 460, 699 S.E.2d 480, 481 (2010)
- Perry v. Commonwealth, 280 Va. 572, 580, 701 S.E.2d 431, 436 (2010)
- Klarfield v. Salsbury, 233 Va. 277, 286, 355 S.E.2d 319, 324 (1987)
- Bissell v. Commonwealth, 199 Va. 397, 400, 100 S.E.2d 1, 3 (1957)
- Commonwealth v. Doss, 159 Va. 968, 974, 167 S.E. 371, 374 (1933)
- McHenry v. Adams, 248 Va. 238, 243, 448 S.E.2d 390, 393 (1994)
- Mahony v. Becker, 246 Va. 209, 213, 435 S.E.2d 139, 141 (1993)
- Starnes v. Cayouette, 244 Va. 202, 206-07, 419 S.E.2d 669, 671 (1992)

OPINION

GOODWYN, J.

PRESENT: Lemons, C.J., Goodwyn, Mims, McClanahan, Powell, and Kelsey, JJ., and Lacy, S.J.
NANCY HAYNES OPINION BY v. Record No. 150666 JUSTICE S. BERNARD GOODWYN
April 21, 2016 SEAN ARTHUR HAGGERTY, F/K/A SUSAN A. HAGGERTY FROM THE
CIRCUIT COURT OF SPOTSYLVANIA COUNTY Joseph J. Ellis, Judge In this appeal, we consider whether the circuit court erred in granting a plea in bar of the statute of limitations in a civil action concerning alleged sexual abuse that occurred between 1971 and 1975.

BACKGROUND On April 25, 2014, Nancy Haynes (Haynes) filed suit in the Circuit Court of Spotsylvania County against Sean Arthur Haggerty (Haggerty), seeking damages for sexual assault and battery, aggravated sexual assault and battery and intentional infliction of emotional distress.

The complaint alleged that Haggerty, an adult, had a sexual relationship with Haynes from 1971 through 1975, while Haynes was a minor. Haynes reached the age of majority in March 1975. Haynes claimed that on May 14, 2012, her therapist was the first mental health or medical professional to diagnose her with Dysthemic Disorder and to inform her that this ailment was a result of sexual abuse inflicted upon her during her infancy by Haggerty.

On May 19, 2014, Haggerty filed a plea in bar asserting that the suit was barred by the applicable statute of limitations. On January 15, 2015, the circuit court issued a letter opinion sustaining the plea in bar. The circuit court noted that the statute of limitations applicable in 1975 had expired before the passage of Code § 8.01-249(6), which now provides that causes of action based on

childhood sexual abuse accrue when the fact of the injury and its causal connection to the abuse is first communicated to the person by a licensed physician, psychologist or clinical psychologist.

The circuit court reasoned that the application of Code § 8.01-249(6) in this case, to revive an expired statute of limitations, deprived Haggerty of due process and a property right to a statute of limitations defense in violation of Amendment XIV of the Constitution of the United States (Fourteenth Amendment), because of the length of time that had passed since the abuse had taken place and Haynes had reached the age of majority.

The court concluded, Plaintiff's extremely protracted failure to act though being fully aware of Defendant's sexual misconduct — even in the absence of a specific causal connection to her current psychological diagnosis — so egregiously undermined the Defendant's constitutional rights to due process and deprivation of property as to require this Court to sustain Defendant's Plea in Bar.

(Emphasis in original.) Subsequently, having found Code § 8.01-249(6) to be inapplicable in this instance, the circuit court entered a final order granting Haggerty's plea in bar of the statute of limitations and dismissing Haynes' suit with prejudice. Haynes appeals. ANALYSIS We review the circuit court's decision on a plea in bar of the statute of limitations de novo.

Van Dam v. Gay, 280 Va. 457, 460, 699 S.E.2d 480, 481 (2010). Code § 8.01-249 presently states, in relevant part, The cause of action in the actions herein listed shall be deemed to accrue as follows: 6. In actions for injury to the person, whatever the theory of recovery, resulting from sexual abuse occurring during the infancy or incapacity of the person, upon the later of the removal of the disability of infancy or incapacity as provided in § 8.01-229 or when the fact of the injury and its causal connection to the sexual abuse is first communicated to the person by a licensed physician, psychologist, or clinical psychologist.

2 The circuit court held that the application of this provision in this case would be unconstitutional because it would violate Haggerty's due process rights and deprive him of a vested property right to a statute of limitations defense. Haynes argues that the circuit court erred in holding that the retroactive application of Code § 8.01-249(6) in this case would be unconstitutional.

Haggerty responds that the circuit court was correct. Further, Haggerty asserts that even if application of Code § 8.01-249(6) is not constitutionally prohibited, this Court should uphold the circuit court's decision using the right result for the wrong reason doctrine. Haggerty asserts that, by statute, Code § 8.01-249(6) does not apply to causes of action that existed before October 1, 1977.

Therefore, Haggerty claims that the circuit court did not err in ruling that the statute of limitations laws that existed in 1975 govern this suit and that, as a result, the suit is time-barred. In instances

where a trial court's decision is correct, but its reasoning is incorrect, and the record supports the correct reason, we uphold the judgment pursuant to the right result for the wrong reason doctrine.

Perry v. Commonwealth, 280 Va. 572, 580, 701 S.E.2d 431, 436 (2010). This Court may uphold a judgment even when the correct reasoning is not mentioned by a party in trial argument or by the trial court in its decision, as long as the record contains sufficient information to support the proper reason. *Id.* (“[A]n appellate court’s examination is not limited to the evidence mentioned by a party in trial argument or by the trial court in its ruling.

Rather, an appellate court must consider all the evidence admitted at trial that is contained in the record.” (citation and internal quotation marks omitted)). In order to avoid reaching the question concerning the constitutionality of Code § 8.01- 249(6) unless it is necessary to resolve this appeal, we will first consider Haggerty’s right result for the wrong reason argument.

See *Klarfield v. Salsbury*, 233 Va. 277, 286, 355 S.E.2d 319, 3 324 (1987) (“Firmly established in the field of constitutional law is the doctrine that a court will not rule upon the constitutionality of a statute unless such a determination is absolutely necessary to the decision of the case on the merits.”); *Bissell v. Commonwealth*, 199 Va. 397, 400, 100 S.E.2d 1, 3 (1957) (“One of the most firmly established doctrines in the field of constitutional law is that a court will pass upon the constitutionality of a statute only when it is necessary to the determination of the merits of the case.

This principle is recognized by appellate courts generally.”); *Commonwealth v. Doss*, 159 Va. 968, 974, 167 S.E. 371, 374 (1933) (“Courts do not pass upon the constitutionality of statutes unless they must.”). Assuming without deciding that the circuit court provided an erroneous rationale for its ruling, we must determine whether, statutorily, Code § 8.01-249(6) is applicable in this case.

Code § 8.01-249 is included in Chapter 4 of Title 8.01. Chapter 4 also includes Code § 8.01-256. Code § 8.01-256 states, in relevant part, If a cause of action, as to which no action, suit, scire facias, or other proceeding is pending, exists before October 1, 1977, then this chapter shall not apply and the limitation as to such cause of action shall be the same, if any, as would apply had this chapter not been enacted.

A cause of action exists when a plaintiff is injured as a result of tortious action, “and the injury need only be slight; it is immaterial that more substantial damage may occur at a later date.” *McHenry v. Adams*, 248 Va. 238, 243, 448 S.E.2d 390, 393 (1994); see also *Mahony v. Becker*, 246 Va. 209, 213, 435 S.E.2d 139, 141 (1993) (“Any cause of action for intentional infliction of emotional distress accrues and the time limitation begins to run when the tort is committed.” (citation and internal quotation marks omitted)).

The alleged abuse in this case began in 1971 and continued through the end of Haynes’ infancy. While Haynes was not diagnosed with Dysthemic Disorder until 2012, the sexual abuse she

suffered as a child inherently caused her injury when it occurred. See *Starnes v. Cayouette*, 4 244 Va. 202, 206-07, 419 S.E.2d 669, 671 (1992) (in cases of childhood sexual abuse, “the infant plaintiff [suffers] an injury in that she experience[s] positive, physical or mental hurt each time [the abusing party commits] a wrongful act against her and her right of action accrue[s] on that date” (citation and internal quotation marks omitted)).

Therefore, the causes of action raised in this suit concerning activities that took place from the alleged inception of the relationship in 1971 up through the date of her birthday in March 1975 accrued when each unlawful contact occurred, and the limitations period governing these claims was tolled by the predecessor of Code § 8.01-229 until Haynes reached the age of majority in March 1975.

The limitations period on those claims began to run at that point and expired two years later on her birthday in March 1977. Former Code § 8-24 (Cum. Supp. 1975); former Code §§ 8-24, -30 (1957 Repl. Vol.). Thus, Haynes’ causes of action all existed before the effective date of Title 8.01 on October 1, 1977, and pursuant to Code § 8.01-256, the statutes of limitations for those causes of action are the same as if Code § 8.01-249 had not been enacted.

Therefore, Code § 8.01-249(6) does not apply to Haynes’ claims, and the circuit court did not err in granting Haggerty’s plea in bar of the statute of limitations. **CONCLUSION** For the reasons stated, we affirm the judgment of the circuit court granting the plea in bar of the statute of limitations. Affirmed. 5