SUPREME COURT OF OKLAHOMA

Scottsdale Insurance Company v. Tolliver

Scottsdale Ins. Co. v. Tolliver, 127 P.3d 611 (Okla. 2005) · No. No. 102,080 · Decided December 20, 2005

SUMMARY

The Supreme Court of Oklahoma declined to answer a certified question concerning whether an insured must intend to deceive an insurer before a misrepresentation, omission, or incorrect statement on an insurance application can prevent recovery under Oklahoma Insurance Code section 3609. The court concluded that controlling Oklahoma precedent already required a finding of intent to deceive, making certification inappropriate under the Revised Uniform Certification of Questions of Law Act.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Edmondson, J.; Watt, C.J.; Winchester, V.C.J.; Lavender, J.; Hargrave, J.; Kauger, J.; Taylor, J.; Colbert, J.; Opala, J.
JURISDICTION	Oklahoma
DECIDED	December 20, 2005
DOCKET	No. 102,080
DISPOSITION	other
PROCEDURAL POSTURE	The United States District Court for the Northern District of Oklahoma certified a question of Oklahoma insurance law concerning whether intent to deceive is required under 36 O.S. § 3609 before an insurer may avoid coverage based on a misrepresentation or omission in an insurance application. The Oklahoma Supreme Court declined to answer the certified question because controlling Oklahoma precedent already resolved the issue.
STANDARD OF REVIEW	The court exercised discretionary review under Oklahoma's Revised Uniform Certification of Questions of Law Act to determine whether the statutory prerequisites for answering a certified question were satisfied.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential.
PARTIES	Scottsdale Insurance Company v. Michael S. Tolliver, Sandra L. Tolliver

TOPICS

appellate procedure · statutory interpretation · insurance coverage · declaratory relief insurance · insurance bad faith

PRACTICE AREAS

insurance coverage · insurance bad faith · declaratory relief · certified questions

QUESTIONS PRESENTED

1. Whether the Oklahoma Supreme Court should answer the certified question asking whether Oklahoma law requires proof that an insured intended to deceive the insurer before a misrepresentation, omission, or incorrect statement in an insurance application can prevent recovery under 36 O.S. § 3609.
2. Whether the certified question satisfied the statutory prerequisites for discretionary review when controlling Oklahoma precedent already addressed the issue.

HOLDINGS

1. The Oklahoma Supreme Court may decline to answer a certified question when the prerequisites of the certification statute are not satisfied, including when controlling Oklahoma precedent already resolves the question.
2. The court recognized that controlling Oklahoma precedent requires a finding that the insured intended to deceive the insurer before a misrepresentation, omission, or incorrect statement in an application can avoid the policy under § 3609, but it declined to answer the certified question because the issue was already controlled by Oklahoma precedent.

KEY QUOTATIONS

> *"We conclude that under these particular circumstances it is inappropriate for us to answer the question certified by the United States District Court and we respectfully decline to answer the question."* (615)

FACTUAL BACKGROUND

The Tollivers sought coverage for a fire loss under a policy issued by Scottsdale. Scottsdale alleged that the Tollivers had failed to disclose prior losses on their insurance application and argued that the omission was material under 36 O.S. § 3609. There was no proof that the Tollivers intended to deceive Scottsdale. The underlying action included Scottsdale's declaratory-relief claim and the Tollivers' claims for breach of contract and bad faith.

PROCEDURAL HISTORY

Scottsdale sought declaratory relief to avoid payment of the Tollivers' fire-loss claim based on alleged misrepresentations concerning prior losses in their insurance application. The Tollivers counterclaimed for breach of contract and bad-faith refusal to pay. The federal district court certified the legal question to the

Oklahoma Supreme Court while Scottsdale's motion for summary judgment was pending; the Oklahoma Supreme Court declined to answer.

DISPOSITION

other

CASES CITED

- Cray v. Deloitte Haskins & Sells, 1996 OK 102, 925 P.2d 60
- Bituminous Casualty Corp. v. Cowen Construction, Inc., 2002 OK 34, 55 P.3d 1030
- Hammock v. United States, 2003 OK 77, 78 P.3d 93
- Massachusetts Mutual Life Ins. Co. v. Allen, 1965 OK 203, 416 P.2d 935
- Whitlatch v. John Hancock Mutual Life Insurance Co., 1968 OK 6, 441 P.2d 956
- Brunson v. Mid-Western Life Ins. Co., 1976 OK 32, 547 P.2d 970
- Claborn v. Washington National Insurance Co., 1996 OK 8, 910 P.2d 1046
- Hays v. Jackson National Life Ins. Co., 105 F.3d 583 (10th Cir. 1997)
- Vining v. Enterprise Financial Group, Inc., 148 F.3d 1206 (10th Cir. 1998)