

SUPREME COURT OF NEW HAMPSHIRE

In re George, 160 N.H. 699

7 A.3d 1184 (N.H. 2010) · No. 2010-024 · Decided September 17, 2010

SUMMARY

The New Hampshire Supreme Court held that a nonpatient's negligence claim against a medical care provider was an "action for medical injury" subject to referral to a medical injury screening panel under RSA chapter 519-B. The court concluded that the statutory definitions do not require the claimant or injured person to be a patient, because resolving the claim required determining whether the provider's professional treatment of the patient deviated from the applicable standard of care. The court affirmed the referral while expressing no opinion on whether the provider owed a duty to the plaintiff or on the ultimate viability of her claims.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Dalianis, J.; Broderick, C.J.; Duggan, J.; Hicks, J.; Conboy, J.
JURISDICTION	New Hampshire
DECIDED	September 17, 2010
DOCKET	2010-024
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for original jurisdiction seeking review of the Superior Court's order referring the plaintiff's claim against a medical-care provider to a medical injury screening panel under RSA chapter 519-B.
STANDARD OF REVIEW	Statutory interpretation is a question of law reviewed de novo. The court gives statutory words their plain and ordinary meaning, interprets statutes within the overall statutory scheme, and does not add language the legislature omitted.
PRECEDENTIAL VALUE	Published New Hampshire Supreme Court opinion; precedential.
PARTIES	Juli George v. Merrimack River Medical Services, Inc. d/b/a Community Substance Abuse Centers, Amy Steadman

TOPICS

medical malpractice

professional negligence

statutory interpretation

appellate procedure

standard of review

PRACTICE AREAS

health law

medical malpractice

professional negligence

appellate procedure

QUESTIONS PRESENTED

1. Whether a nonpatient's claim against a medical-care provider, alleging that negligent treatment of the provider's patient caused injury to the nonpatient, is an action for medical injury subject to referral to a medical injury screening panel under RSA chapters 507-E and 519-B.
2. Whether applying the medical injury screening-panel statutes to claims brought by nonpatients violates the Equal Protection Clauses of the New Hampshire and United States Constitutions.

HOLDINGS

1. A claim against a medical-care provider is an action for medical injury subject to RSA chapter 519-B screening when recovery requires proof that the provider was negligent in the care, treatment, or supervision of a patient, even if the claimant is not the patient and the injury was suffered by a nonpatient.
2. The equal-protection arguments failed because they were based on the incorrect premise that only patients may assert claims for medical injury under RSA 507-E:1, III.

KEY QUOTATIONS

"We conclude that the plaintiff's claim against CSAC is an "action for medical injury" because, to recover on it, she must prove that CSAC was negligent in its care, treatment and supervision of Steadman." (7 A.3d at 1186)

"The identity of the plaintiff does not affect whether the defendant's medical judgment is at issue." (7 A.3d at 1188)

"Had the legislature intended to limit the definition to injuries sustained by patients, it could have so stated." (7 A.3d at 1189)

FACTUAL BACKGROUND

Juli George alleged that Amy Steadman's vehicle crossed the centerline and struck George's vehicle after Steadman fell asleep at the wheel following methadone treatment at Community Substance Abuse Centers. George alleged that CSAC negligently monitored and supervised Steadman, failed to determine the proper methadone dosage, failed to account for other substances, and allowed Steadman to leave while impaired. George sought damages for her resulting injuries, although she was not a patient of CSAC.

PROCEDURAL HISTORY

George filed a 2009 writ alleging that Steadman, after receiving methadone from CSAC, fell asleep while driving and struck George's vehicle. CSAC moved to refer George's claim against it to a medical injury screening panel; the Superior Court granted the motion and denied reconsideration. The Superior Court denied leave for an interlocutory appeal, after which George filed this petition for original jurisdiction.

DISPOSITION

affirmed

CASES CITED

- Petition of Farmington Teachers Assoc., 158 N.H. 453, 456, 969 A.2d 422 (2009)
- Vasa v. Compass Medical, P.C., 456 Mass. 175, 921 N.E.2d 963, 966-967 (2010)
- Santos v. Kim, 429 Mass. 130, 706 N.E.2d 658, 660 (1999)
- Lord v. Lovett, 146 N.H. 232, 237, 770 A.2d 1103 (2001)
- Cheeks v. Dorsey, 846 So. 2d 1169, 1173 (Fla. Dist. Ct. App.), review denied, 859 So. 2d 513 (Fla. 2003)
- Joy v. Eastern Maine Medical Center, 529 A.2d 1364, 1366 (Me. 1987)
- Wilschinsky v. Medina, 108 N.M. 511, 775 P.2d 713, 717 (1989)
- Hardee v. Bio-Medical Applications of SC, 370 S.C. 511, 636 S.E.2d 629, 631-632 (2006)
- Burroughs v. Magee, 118 S.W.3d 323, 331-333 (Tenn. 2003)
- McKenzie v. Hawai'i Permanente Med. Group, 98 Hawai'i 296, 47 P.3d 1209, 1221-1222 (2002)
- Lester ex rel. Mavrogenis v. Hall, 126 N.M. 404, 970 P.2d 590, 592-593 (1998)
- Rebolal v. Payne, 145 A.D.2d 617, 536 N.Y.S.2d 147, 148 (1988)