

DISTRICT OF COLUMBIA COURT OF APPEALS

Cárdenas v. Muangman

998 A.2d 303 (D.C. 2010) · Decided June 17, 2010

SUMMARY

The District of Columbia Court of Appeals held that the plaintiffs’ expert was qualified to testify about the national standard of care for a second-trimester dilation and evacuation procedure. The court further held that the expert’s testimony was sufficient to allow the jury to find that use of laminaria was required, reversing the trial court’s post-verdict judgment as a matter of law and reinstating the medical-malpractice verdict. The court affirmed dismissal of the husband’s loss-of-consortium claim because Virginia law governed that claim and did not recognize it.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Ruiz, Associate Judge; Blackburne; Fisher; Rigsby; Ruiz
JURISDICTION	District of Columbia
DECIDED	June 17, 2010
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from the trial court's post-verdict grant of judgment as a matter of law to the medical-malpractice defendants and dismissal of Francisco Camacho's loss-of-consortium claim.
STANDARD OF REVIEW	Judgment as a matter of law is reviewed de novo. The sufficiency of the evidence to withstand Rule 50 judgment is reviewed de novo and in the light most favorable to the party opposing the motion. The admissibility or qualification of expert testimony is ordinarily reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Francisco Javier Camacho, Beatriz Cárdenas v. Scott P. Muangman, M.D., Nathan Bobrow, M.D.

TOPICS

- medical malpractice
- expert testimony
- standard of care
- loss of consortium
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Dr. Girard was qualified to testify about the national standard of care for a second-trimester dilation and evacuation procedure.
2. Whether Dr. Girard's testimony was legally sufficient to permit a reasonable jury to find the applicable national standard of care by a preponderance of the evidence.
3. Whether the trial court properly dismissed Francisco Camacho's loss-of-consortium claim under District of Columbia choice-of-law principles.

HOLDINGS

1. An expert is qualified to testify about a national medical standard of care when the testimony meets basic competency and relevancy requirements, addresses national norms, and is not based merely on local custom, personal opinion, speculation, or conjecture. Dr. Girard's testimony satisfied those requirements and was admissible.
2. Dr. Girard's testimony was sufficient to permit a reasonable jury to find by a preponderance of the evidence that the national standard of care required use of laminaria before a second-trimester dilation and evacuation procedure.
3. Virginia law governed Camacho's loss-of-consortium claim because the marital relationship was domiciled in Virginia, and Virginia did not recognize a husband's claim for loss of his wife's consortium. The trial court properly dismissed that claim.

KEY QUOTATIONS

“The Court of Appeals will review a motion for judgment as a matter of law de novo by applying the same standard as the trial court.”” (998 A.2d at 306)

“In a medical malpractice action, the plaintiff carries the burden of establishing ... ‘the applicable standard of care, deviation from that standard, and a causal relationship between the deviation and the injury.’”” (998 A.2d at 306)

“The proffered expert’s testimony ‘must meet basic standards of competency and relevancy,’ address national norms, and not be based merely on local custom or personal opinion.”” (998 A.2d at 306)

“We hold that the testimony of Dr. Girard was admissible and sufficient to allow a jury to find the national standard of care on the use of laminaria for the performance of a dilation and evacuation procedure during a second-term abortion.” (998 A.2d at 313)

FACTUAL BACKGROUND

After a second-trimester dilation and evacuation abortion performed by Dr. Scott Muangman in the District of Columbia, Beatriz Cárdenas suffered extensive internal injuries, including uterine and sigmoid-colon lacerations, major blood loss, sepsis, and shock. She underwent a hysterectomy, bilateral salpingo-oophorectomy, colon resection, colostomy, and later reversal of the colostomy. Plaintiffs' expert, Dr. Philippe Girard, testified that the

national standard of care required use of laminaria to dilate the cervix before the procedure and that Dr. Muangman deviated from that standard.

PROCEDURAL HISTORY

The jury returned a \$263,557.96 verdict for the plaintiffs. After defendants renewed their motion for judgment as a matter of law, the trial court reconsidered its earlier ruling admitting plaintiffs' expert testimony, held that the expert lacked a sufficient basis to testify about the national standard of care, set aside the verdict, and entered judgment for defendants. The Court of Appeals reversed the judgment on the medical-malpractice claim, remanded with instructions to reinstate the jury verdict, and affirmed dismissal of the loss-of-consortium claim.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the grant of judgment as a matter of law for appellees and reinstate the jury verdict on the medical-malpractice claim. The dismissal of Camacho's loss-of-consortium claim remains affirmed.

CASES CITED

- Strickland v. Finder, 899 A.2d 770 (D.C. 2006)
- Nwaneri v. Sandidge, 931 A.2d 466 (D.C. 2007)
- Travers v. District of Columbia, 672 A.2d 566 (D.C. 1996)
- Washington v. Washington Hosp. Ctr., 579 A.2d 177 (D.C. 1990)
- District of Columbia v. Peters, 527 A.2d 1269 (D.C. 1987)
- Coulter v. Gerald Family Care, P.C., 964 A.2d 170 (D.C. 2009)
- Hill v. Medlantic Health Care Group, 933 A.2d 314 (D.C. 2007)
- Snyder v. George Washington Univ., 890 A.2d 237 (D.C. 2006)
- Hawes v. Chua, 769 A.2d 797 (D.C. 2001)
- Sponaugle v. Pre-Term, Inc., 411 A.2d 366 (D.C. 1980)
- Aikman v. Kanda, 975 A.2d 152 (D.C. 2009)
- Meek v. Shepard, 484 A.2d 579 (D.C. 1984)
- Weisgram v. Marley Co., 528 U.S. 440 (2000)
- Drevenak v. Abendschein, 773 A.2d 396 (D.C. 2001)
- Stutsman v. Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., 546 A.2d 867 (D.C. 1988)
- Fetch v. Air Florida, Inc., 562 F. Supp. 383 (D.D.C. 1983)
- Linnell v. Sloan, 636 F.2d 65 (4th Cir. 1980)
- Iannello v. Busch Entertainment Corp., 300 F. Supp. 2d 400 (E.D. Va. 2004)
- McMillan v. McMillan, 219 Va. 1127, 253 S.E.2d 662 (1979)
- Miller v. Holiday Inns, Inc., 436 F. Supp. 460 (E.D. Va. 1977)

- Pringle v. Sloan, 44 Va. Cir. 516 (1996)
- Carey v. Foster, 345 F.2d 772 (4th Cir. 1965)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/district-of-columbia-district-of-columbia-court-of-appeals/2010/cardenas-v-muangman-1zhlio80>