

SUPREME COURT OF MISSISSIPPI

Bennie Scott Whittington and Tina S. Whittington v. Woodie L. Mason, M.D. and Hinds Urology Clinic, P.A.

Whittington v. Mason · No. No. 2003-CT-00700-SCT · Decided December 3, 2002

SUMMARY

The Mississippi Supreme Court held that expert testimony is required to establish which risks of a medical procedure are material and therefore must be disclosed to obtain informed consent. Because the plaintiffs presented no expert testimony regarding the materiality of the alleged vasectomy complications, the court affirmed the directed verdict for the defendants and the Court of Appeals' judgment.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Dickinson, Justice; Smith, C.J.; Waller, P.J.; Cobb, P.J.; Carlson, J.; Randolph, J.; Graves, J.; Easley, J.; Diaz, J.
JURISDICTION	Mississippi
DECIDED	December 3, 2002
DOCKET	No. 2003-CT-00700-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiffs sought review by writ of certiorari of the Mississippi Court of Appeals' affirmance of a directed verdict for the defendants in a medical-malpractice informed-consent action.
STANDARD OF REVIEW	Review of a directed verdict; the facts were considered in the light most favorable to the plaintiffs, and the court determined whether the evidence provided a reasonable basis for the jury to find that undisclosed risks were material.
PRECEDENTIAL VALUE	published, precedential Mississippi Supreme Court opinion
PARTIES	Bennie Scott Whittington, Tina S. Whittington v. Woodie L. Mason, M.D., Hinds Urology Clinic, P.A.

TOPICS

- informed consent
- medical malpractice
- standard of care
- writ of certiorari
- appellate procedure

PRACTICE AREAS

medical malpractice

health law

appellate procedure

QUESTIONS PRESENTED

1. Whether expert testimony is required to establish the material risks and available alternatives that a physician must disclose before performing a medical procedure.
2. Whether the plaintiffs' informed-consent claim could be submitted to the jury without expert testimony establishing that the claimed vasectomy complications were material risks requiring disclosure.

HOLDINGS

1. A plaintiff must produce expert testimony to establish the material risks and available alternatives of a medical procedure that must be disclosed to obtain informed consent.
2. The informed-consent claim failed because the plaintiffs presented no expert testimony establishing that the claimed complications were material risks requiring disclosure, leaving no reasonable evidentiary basis for the jury to decide the issue.

KEY QUOTATIONS

“Thus, we hold today that expert testimony is required to assist the finder of fact in determining whether a particular risk is material, requiring disclosure to the patient prior to a medical procedure.” (§25)

“We hold that a plaintiff must produce expert testimony to establish the material risks and available alternatives of a medical procedure.” (§28)

“Absent such expert testimony, a jury may not consider whether a physician conducted a medical procedure without informed consent.” (§28)

FACTUAL BACKGROUND

Bennie Scott Whittington consulted Dr. Woodie Mason about a vasectomy and signed a consent form stating that the plaintiffs had been informed of alternatives and complications. After the procedure, Whittington experienced severe pain, swelling, bruising, bleeding, a granuloma, additional surgeries, prolonged disability, and ultimately removal of his right testicle. The plaintiffs alleged that Dr. Mason failed to disclose material risks including chronic pain, sperm granuloma, additional procedures, and loss of a testicle, but presented no expert testimony establishing that those risks were material and required disclosure.

PROCEDURAL HISTORY

The Whittingtons sued Dr. Mason and Hinds Urology Clinic, asserting various claims arising from a vasectomy and its complications. An agreed order of partial summary judgment left informed consent as the only relevant issue for trial. After the jury failed to reach a verdict, the circuit court directed a verdict for the defendants. The Court of Appeals affirmed, reasoning that expert testimony was required to establish whether loss of a testicle was a known risk of vasectomy. The Mississippi Supreme Court granted certiorari and affirmed the judgments below.

DISPOSITION

affirmed

CASES CITED

- Ross v. Hodges, 234 So. 2d 905 (Miss. 1970)
- Reikes v. Martin, 471 So. 2d 385 (Miss. 1985)
- Hall v. Hilbun, 466 So. 2d 856 (Miss. 1985)
- Herrington v. Spell, 692 So. 2d 93 (Miss. 1997)
- Hudson v. Parvin, 582 So. 2d 403 (Miss. 1991)
- Phillips ex rel. Phillips v. Hull, 516 So. 2d 488 (Miss. 1987)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/mississippi-supreme-court-of-mississippi/2002/bennie-scott-whittington-and-tina-s-whittington-v-woodie-l-30v3oeu9>