

SUPREME COURT OF PENNSYLVANIA

In re Estate of Wagner, 584 Pa. 49

880 A.2d 620 (Pa. 2005) · Decided August 17, 2005

SUMMARY

The Pennsylvania Supreme Court held that a child death review conducted by the Department of Public Welfare was an intergovernmental performance audit under the Child Protective Services Law, rather than a report subject to disclosure. The Court concluded that the audit was confidential in its entirety and could not be obtained through pre-complaint discovery by estate administrators. The court reversed the Commonwealth Court's order compelling production and relinquished jurisdiction.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Eakin; Chief Justice Cappy; Justice Castille; Justice Newman; Justice Nigro; Justice Saylor
JURISDICTION	Pennsylvania
DECIDED	August 17, 2005
DISPOSITION	reversed
PROCEDURAL POSTURE	The estate administrators sought pre-complaint discovery from the Department of Public Welfare through a subpoena duces tecum for materials from a child death review of Lehigh County Children and Youth Services. The trial court ordered production with redactions, and the Commonwealth Court affirmed with limitations. The Supreme Court of Pennsylvania granted review and reversed.
STANDARD OF REVIEW	Plenary review applies to questions of statutory interpretation.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania.
PARTIES	Lehigh County Office of Children and Youth Services, Pennsylvania Department of Public Welfare v. Administrators of the Estate of Andrew Jonathan Wagner

TOPICS

- estate litigation
- discovery dispute
- statutory interpretation
- civil procedure
- probate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a child death review conducted by DPW under 23 Pa.C.S. § 6343(b) is a report or other information subject to disclosure under 23 Pa.C.S. §§ 6339 and 6340.
2. Whether estate administrators may obtain any portion of a child death review through pre-complaint discovery based on their status as subjects of a report.
3. Whether the entire child death review is protected from discovery, including self-assessments, performance critiques, and information relating to the agency's handling of the case.

HOLDINGS

1. A child death review conducted under 23 Pa.C.S. § 6343(b) is an intergovernmental performance audit, not a report made pursuant to the Child Protective Services Law or a report concerning alleged instances of child abuse within the meaning of § 6339.
2. The estate administrators were not entitled to obtain any portion of the child death review under the subject-of-report exception in § 6340(b).
3. No portion of a child death review is available to plaintiffs as discovery.

KEY QUOTATIONS

“These audits are not intended to become fodder for those looking to redress past shortcomings, misconduct, torts, or crimes.” (at 625)

“The statute creating these reviews, and the clearly expressed public policy of the General Assembly and this Court, mandate that no portion of these audits be available to plaintiffs as discovery.” (at 626)

FACTUAL BACKGROUND

Andrew Jonathan Wagner sustained fatal injuries on February 18, 1999, while in the care of a babysitter who had previously been investigated for alleged child abuse involving other children. DPW conducted a performance audit, commonly called a child death review, to determine whether Lehigh County CYS had complied with the Child Protective Services Law and to identify improvements to its monitoring procedures. The audit included agency records, medical records, interviews, findings, recommendations, and a subsequent plan of correction.

PROCEDURAL HISTORY

After the death of Andrew Jonathan Wagner, the estate administrators petitioned for a subpoena seeking records from DPW's performance audit of Lehigh County CYS. The trial court held the review confidential under the Child Protective Services Law but concluded the administrators were entitled to obtain it under the statutory subject-of-report provision, subject to redactions. The Commonwealth Court affirmed, reasoning that portions of the review were discoverable. The Supreme Court reversed and relinquished jurisdiction.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand was ordered; jurisdiction was relinquished.

CASES CITED

- *Gustine Uniontown Associates, Ltd. v. Anthony Crane Rental, Inc.*, 577 Pa. 14, 842 A.2d 334, 343 (2004)
- *O'Rourke v. Department of Corrections*, 566 Pa. 161, 778 A.2d 1194, 1201 (2001)
- *Mishoe v. Erie Insurance Co.*, 573 Pa. 267, 824 A.2d 1153, 1155 (2003)
- *V.B.T. v. Family Services of Western Pennsylvania*, 705 A.2d 1325, 1333, 1336 (Pa. Super. Ct. 1998), *aff'd*, 556 Pa. 430, 728 A.2d 953 (1999)
- *Pennsylvania v. Ritchie*, 480 U.S. 39, 60-61 (1987)
- *In re Estate of Wagner*, 791 A.2d 444 (Pa. Commw. Ct. 2002)

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