

SUPREME COURT OF MISSOURI

State ex rel. Deborah Howenstine, M.D. v. The Honorable Ellen S. Roper

155 S.W.3d 747 (Mo. banc 2005) · No. SC 85998 · Decided February 15, 2005

SUMMARY

The Supreme Court of Missouri held that Dr. Deborah Howenstine was protected from a medical malpractice suit by both official immunity and public duty immunity. The court concluded that her duties as medical director of a public health clinic involved discretionary governmental functions and duties owed to the public, not specifically to the plaintiff. The court made its preliminary writ of prohibition absolute.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	William Ray Price, Jr.; All members of the court concurred
JURISDICTION	Missouri
DECIDED	February 15, 2005
DOCKET	SC 85998
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original proceeding in prohibition by a physician seeking relief from the trial court's order overruling her motion for summary judgment based on official immunity and public duty immunity.
STANDARD OF REVIEW	Prohibition is appropriate when, on uncontested facts, a trial court wrongly decides a matter of law and thereby deprives a party of an absolute defense. The court reviewed the immunity issues as questions of law.
PRECEDENTIAL VALUE	Published Missouri Supreme Court en banc opinion; precedential.
PARTIES	State ex rel. Deborah Howenstine, M.D., Relator v. The Honorable Ellen S. Roper, Respondent

TOPICS

- writ of certiorari
- summary judgment
- appellate procedure
- medical malpractice
- health law

PRACTICE AREAS

civil procedure

appellate procedure

medical malpractice

health law

torts

QUESTIONS PRESENTED

1. Whether prohibition was an appropriate remedy to address the trial court's denial of summary judgment on absolute immunity grounds.
2. Whether Dr. Howenstine, acting as medical director of a public health clinic, was a public official performing discretionary functions protected by official immunity.
3. Whether the nurses' tuberculosis treatment was performed under independent statutory and regulatory authority rather than under Dr. Howenstine's medical license, defeating vicarious-liability arguments based on the treating-physician exception.
4. Whether Missouri's collaborative-practice regulations imposed on Dr. Howenstine a nondiscretionary duty to ensure the nurses' competency or to oversee the clinic's population-based tuberculosis services.
5. Whether Dr. Howenstine was protected by public duty immunity because her medical-director duties were owed to the public generally rather than to Muren individually.

HOLDINGS

1. Prohibition was appropriate because the material facts were undisputed and the trial court's denial of summary judgment wrongly deprived Dr. Howenstine of absolute immunity as a matter of law.
2. Dr. Howenstine was protected by official immunity because she was a public official acting in a discretionary capacity as medical director of the public health clinic.
3. The treating-physician exception did not apply because Muren did not allege negligent treatment by Dr. Howenstine herself, and the nurses' tuberculosis treatment was performed under independent statutory authority and written protocols rather than under her medical license.
4. The applicable population-based public-health regulation did not impose on Dr. Howenstine a specific nondiscretionary duty to ensure the nurses' competency or oversee their tuberculosis services. Any duty beyond the regulation was discretionary and protected by official immunity.
5. Dr. Howenstine was protected by public duty immunity because, in her role as medical director, she owed duties concerning the clinic's population-based tuberculosis services to the public generally, not to Muren individually.

KEY QUOTATIONS

"This Court issued a preliminary writ, which is now made absolute." (749)

"[O]fficial immunity shields officials from liability for injuries arising out of their discretionary acts or omissions. An official may be held liable for injuries arising out of ministerial acts." (752)

"This immunity protects 'those individuals who, in the face of imperfect information and limited resources, must daily exercise their best judgment in conducting the public's business.'" (752)

"There can be no question that a nurse undertakes only a nursing diagnosis, as opposed to a medical diagnosis, when she or he finds or fails to find symptoms described by physicians in standing orders and protocols for the purpose of administering courses of treatment prescribed by the physician in such orders and protocols." (754)

"Dr. Howenstine is immune from suit because her duties as medical director ran only to the public." (756)

FACTUAL BACKGROUND

Paul Muren received tuberculosis treatment from public health nurses and an advanced practice nurse at the City of Columbia/Boone County Health Department Clinic in April 2000. He was prescribed isoniazid, suffered liver damage, and required a transplant. Dr. Howenstine later treated him and also served as the clinic's medical director, assisting with protocols, training, consultation, and supervision. Muren alleged that she was responsible for the nurses' negligent treatment, but did not allege negligence in her own direct treatment of him.

PROCEDURAL HISTORY

Paul Muren sued Dr. Howenstine and several nurses for alleged negligent tuberculosis treatment at a public health clinic. Muren settled with the nurses, leaving Dr. Howenstine as the sole remaining defendant. The trial court overruled her summary-judgment motion, and the Supreme Court of Missouri issued a preliminary writ of prohibition, which it made absolute after determining that she was immune as a matter of law.

DISPOSITION

writ_granted

CASES CITED

- State ex rel. Div. of Motor Carrier & R.R. Safety v. Russell, 91 S.W.3d 612, 616 (Mo. banc 2002)
- State ex rel. O'Blennis v. Adolf, 691 S.W.2d 498, 500 (Mo. App. 1985)
- Charron v. Thompson, 939 S.W.2d 885, 886 (Mo. banc 1996)
- Green v. Denison, 738 S.W.2d 861, 866 (Mo. banc 1987)
- Brown v. Tate, 888 S.W.2d 413, 416 (Mo. App. 1994)
- State ex rel. Pickett v. Truman, 64 S.W.2d 105, 106 (Mo. 1933)
- State ex rel. Eli Lilly & Co. v. Gaertner, 619 S.W.2d 761, 762-765 (Mo. App. 1981)
- Kanagawa v. State, 685 S.W.2d 831, 836 (Mo. banc 1985)
- Sermchief v. Gonzales, 660 S.W.2d 683, 684-690 (Mo. banc 1983)
- Heins Implement Co. v. Mo. Highway & Transp. Comm'n, 859 S.W.2d 681, 694 (Mo. banc 1993)

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