

SUPREME COURT OF DELAWARE

Buchanan v. Gay

929 A.2d 783 (Del. 2007) · No. No. 562, 2006 · Decided May 17, 2007

SUMMARY

The Delaware Supreme Court affirmed the Superior Court’s dismissal of David J. Buchanan’s complaint seeking \$37 million in damages against an attorney, a nurse, and a law firm. The Court granted the appellees’ motions to affirm, concluding that the appeal was manifestly without merit and that the Superior Court committed no legal error or abuse of discretion.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Carolyn Berger, Justice; Holland, Justice; Berger, Justice; Jacobs, Justice
JURISDICTION	Delaware
DECIDED	May 17, 2007
DOCKET	No. 562, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	Buchanan appealed the Superior Court's dismissal of his complaint and denial or disposition of his related motions. The appellees moved to affirm under Delaware Supreme Court Rule 25(a).
STANDARD OF REVIEW	The Supreme Court reviewed the Superior Court's rulings for error of law and abuse of discretion, concluding that neither was apparent.
PRECEDENTIAL VALUE	published
PARTIES	David J. Buchanan, in the interest of Heidi N. Buchanan v. Thomas E. Gay, Esquire, Thalia Joan Gay, Stumpf, Vickers & Sandy, P.A.

TOPICS

- motions to dismiss
- appellate procedure
- civil procedure
- medical malpractice
- standing

PRACTICE AREAS

- civil procedure
- appellate procedure
- medical malpractice
- family law
- bankruptcy

QUESTIONS PRESENTED

1. Whether the Superior Court erred or abused its discretion in dismissing Buchanan's complaint and otherwise denying relief on his motions.
2. Whether the appeal was manifestly without merit such that the appellees' motions to affirm should be granted under Delaware Supreme Court Rule 25(a).

HOLDINGS

1. The Supreme Court found no discernible error of law or abuse of discretion in the Superior Court's dismissal of the complaint and denial or disposition of Buchanan's other motions.

KEY QUOTATIONS

“We find it manifest on the face of the opening brief that the appeal is without merit.” (929 A.2d at 783)

“The Court cannot discern an error of law or abuse of discretion on the part of the Superior Court when dismissing the complaint and otherwise denying relief.” (929 A.2d at 783)

“The judgment of the Superior Court is AFFIRMED.” (929 A.2d at 783)

FACTUAL BACKGROUND

Buchanan sued an attorney, the attorney's spouse who was a nurse, and the attorney's law firm, asserting a wide range of damages claims arising from medical care, family-law and bankruptcy-related proceedings, and litigation conduct. The nurse defendant sought dismissal for failure to file the affidavit of merit required for healthcare negligence claims. The attorney and law-firm defendants sought dismissal based on failure to state a cognizable claim, failure to join a necessary party, collateral estoppel, judicial estoppel, absolute privilege, and lack of standing. Buchanan also attempted to pursue relief on behalf of his daughter, but the Superior Court dismissed those claims based on representation and standing-related deficiencies.

PROCEDURAL HISTORY

Buchanan filed a complaint seeking \$37 million in damages based on numerous asserted claims, including medical malpractice, breach of fiduciary duty, defamation, emotional distress, abuse of process, bankruptcy-law violations, and civil-rights violations. The Superior Court granted the defendants' motions to dismiss on September 21, 2006, and denied Buchanan's motion for reargument on October 13, 2006. Buchanan timely appealed, and the Supreme Court granted the motions to affirm and affirmed the Superior Court's judgment.

DISPOSITION

affirmed

CASES CITED

- Buchanan v. Gay, 2006 WL 2709401 (Del. Super. Ct.)

OPINION

PER CURIAM.

DAVID J. BUCHANAN, and in the interest of HEIDI N. BUCHANAN, Plaintiff Below, Appellant, v. THOMAS E. GAY, ESQUIRE; THALIA JOAN GAY; and the firm of STUMPF, VICKERS & SANDY, P.A., Defendants Below, Appellees. No. 562, 2006. Supreme Court of Delaware. Submitted: March 8, 2007. Decided: May 17, 2007.

Before HOLLAND, BERGER and JACOBS, Justices. ORDER Carolyn Berger, Justice This 17th day of May 2007, upon consideration of the opening brief filed by the pro se appellant, David J. Buchanan ("Buchanan"), a motion to affirm filed by appellees-Thomas E. Gay, Esq. and the law firm of Stumpf Vickers & Sandy, P.A. (collectively "Attorney/Law Firm Defendants"), and a motion to affirm filed by appellee-Thalia Joan Gay ("Nurse Defendant"), it appears to the Court that: (1) Buchanan filed a complaint seeking damages in the amount of \$37 million dollars for "Breach of Fiduciary Duty, Medical Malpractice, Defamation of Character, Derivative Tort, Infliction of Severe Emotional Distress and Harm, Litigation Conducted in Malum in Se, Failure to Observe Federal Bankruptcy Laws, Violation of Civil Rights, Disadvantaging an Opposing Party by Misleading a Presiding Judge, Abuse of Process, Errors and Omissions." [1] Nurse Defendant denied the medical malpractice allegations and sought to dismiss the complaint for Buchanan's failure to file an affidavit of merit. [2] Attorney/Law Firm Defendants sought to dismiss the complaint for Buchanan's failure to state a cognizable claim, his failure to join a necessary party, and on the bases of collateral estoppel, judicial estoppel, absolute privilege, and lack of standing. [3] (2) On June 26, 2006, the Superior Court conducted a hearing on the motions to dismiss filed by Attorney/Law Firm Defendants and Nurse Defendant (collectively "Defendants") and several motions filed by Buchanan. [4] By memorandum opinion dated September 21, 2006, the Superior Court granted Defendants' motions to dismiss and denied, deemed moot, or denied as stricken, Buchanan's motions. [5] Buchanan then filed a timely motion for reargument, which the Superior Court denied by order dated October 13, 2006.

(3) Buchanan filed this appeal from the Superior Court's September 21, 2006 and October 13, 2006 decisions. The Court has carefully considered the parties' positions on appeal and the Superior Court record, including the transcript of the June 26, 2006 hearing. [6] (4) We find it manifest on the face of the opening brief that the appeal is without merit.

The Court cannot discern an error of law or abuse of discretion on the part of the Superior Court when dismissing the complaint and otherwise denying relief. The Court concludes that the Superior Court's judgment should be affirmed on the basis of, and for the reasons set forth in, the well-reasoned decisions of September 21, 2006 and October 13, 2006. NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 25(a), that the motions to affirm are GRANTED.

The judgment of the Superior Court is AFFIRMED. NOTES [1] Buchanan filed the complaint on his behalf and in the interest of his daughter, Heidi N. Buchanan ("Daughter"). To the extent

Buchanan sought relief on behalf of Daughter, the Superior Court dismissed the complaint for (I) Buchanan's failure to follow the procedure for appointment as Daughter's legal representative, (ii) Daughter's age of majority at the time of the proceedings, and (iii) Daughter's affidavit requesting that she be dismissed as a party.

[2] See Del. Code Ann. tit. 18, § 6853(a)(1) (Supp. 2006) (providing that a healthcare negligence complaint must be accompanied by an affidavit of merit signed by an expert witness stating that there are reasonable grounds to believe that healthcare medical negligence has been committed).

[3] Attorney/Law Firm Defendants represented Buchanan's former wife in matters before the Family Court, the Federal Bankruptcy Court, and this Court. Nurse Defendant is a licensed nurse employed by Beebe Hospital where Buchanan was a patient and is the spouse of Attorney Defendant.

[4] Buchanan filed motions for default judgment, to strike and for protective order. [5] Buchanan v. Gay, 2006 WL 2709401 (Del. Super. Ct.). [6] A copy of the hearing transcript was provided to Buchanan at State expense.