

SUPERIOR COURT OF PENNSYLVANIA

M.C.M. ex rel. M.G.M. v. Milton S. Hershey Medical Center

834 A.2d 1155 (Pa. Super. Ct. 2003) · Decided September 15, 2003

SUMMARY

The Pennsylvania Superior Court reversed summary judgment for Milton Hershey Medical Center in a corporate negligence action involving the alleged failure to use tandem mass spectrometry to screen a newborn for glutaric aciduria type I. The court held that Frye did not apply to expert testimony concerning the extent of hospitals’ use of the test in 1994 because that issue did not involve novel scientific evidence. The court also granted the medical center’s motion to strike the appellants’ reply brief for failing to comply with Pennsylvania appellate rules.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Popovich, J.; Hudock, J.; Todd, J.
JURISDICTION	Pennsylvania
DECIDED	September 15, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from the entry of summary judgment for Milton S. Hershey Medical Center after the trial court granted the Medical Center's motion in limine under Frye and excluded expert testimony concerning tandem mass spectrometry newborn screening.
STANDARD OF REVIEW	Review of summary judgment is plenary, with the appellate court applying the same standard as the trial court. The court determines whether the record presents a genuine issue of material fact and whether the moving party is entitled to judgment as a matter of substantive law; reversal is warranted for an error of law or clear abuse of discretion.
PRECEDENTIAL VALUE	published and precedential Pennsylvania Superior Court opinion
PARTIES	M.C.M., by and through M.G.M. and C.W. v. Milton S. Hershey Medical Center

TOPICS

- summary judgment
- expert testimony
- evidence
- standard of review
- civil procedure

PRACTICE AREAS

civil procedure

evidence

medical negligence

health law

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court improperly applied Frye to exclude expert testimony concerning the availability, reliability, and use of tandem mass spectrometry screening for GA-I in newborns in 1994.
2. Whether the trial court properly entered summary judgment after excluding that expert testimony.
3. Whether the appellants' reply brief should be stricken for improperly rearguing issues and exceeding the applicable page limitation.

HOLDINGS

1. The reply brief violated Pennsylvania Rule of Appellate Procedure 2113 by rearguing issues raised in the original brief and also exceeded the applicable page limitation under Rule 2135(2); the motion to strike was therefore granted.
2. Frye requires general acceptance of the principles and methodology underlying novel scientific evidence, but it does not require general acceptance of the expert's conclusions drawn from generally accepted principles and methodologies.
3. Frye does not apply to evidence concerning which hospitals had policies using tandem mass spectrometry to screen newborns for GA-I in 1994, because compiling that information is not novel scientific evidence.
4. Summary judgment was improper because the trial court erroneously excluded the expert testimony under Frye and thereby resolved the ultimate factual question that belonged to the jury.

KEY QUOTATIONS

“Under Frye, a party wishing to introduce such evidence must demonstrate to the trial court that the relevant scientific community has reached general acceptance of the principles and methodology employed by the expert witness before the trial court will allow the expert witness to testify regarding his conclusions.” (1158-59)

“However, the conclusions reached by the expert witness from generally accepted principles and methodologies need not also be generally accepted.” (1159)

“Frye does not apply with respect to a determination of which hospitals had a policy of utilizing the MS/MS test to diagnose GA-I in newborn infants, because a compilation of the number of hospitals which used the test in 1994 could not be considered “novel scientific evidence.”” (1159)

“As we have held many times, it is the province of the jury to weigh questions of fact and assess the credibility of expert witnesses.” (1160)

FACTUAL BACKGROUND

M.C.M. was born at Milton S. Hershey Medical Center on January 20, 1994. In December 1994, he developed severe symptoms and was diagnosed with GA-I, an inborn metabolic disorder that caused profound neurological injury, permanent brain damage, quadriparesis, and dystonia. His parents alleged that tandem mass spectrometry screening was a reliable method of detecting GA-I in 1994 and that the Medical Center negligently failed to offer the test.

PROCEDURAL HISTORY

M.C.M.'s parents brought a corporate-negligence action alleging that the Medical Center negligently failed to offer tandem mass spectrometry screening for GA-I in 1994. The Court of Common Pleas of Lancaster County held a two-day Frye hearing, granted the Medical Center's motion in limine, and entered summary judgment for the Medical Center. The Superior Court granted the Medical Center's motion to strike the appellants' reply brief, reversed the summary judgment, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion. Jurisdiction was relinquished.

CASES CITED

- Frye v. United States, 293 F. 1013 (D.C. Cir. 1923)
- Commonwealth v. Topa, 369 A.2d 1277 (Pa. 1977)
- Childers v. Power Line Equip. Rentals, 681 A.2d 201, 214 n.7 (Pa. Super. Ct. 1996)
- Stanton v. Lackawanna Energy, Ltd., 820 A.2d 1256, 1258-59 (Pa. Super. Ct. 2003)
- Track v. Fellin, 817 A.2d 1102, 1108-09, 1111-12 (Pa. Super. Ct. 2003)
- Blum v. Merrell Dow Pharms., Inc., 764 A.2d 1, 5 (Pa. 2000) (Cappy, C.J., dissenting)
- Edwards v. Brandywine Hosp., 652 A.2d 1382 (Pa. Super. Ct. 1995)
- Welsh v. Bulger, 698 A.2d 581, 585 (Pa. 1997)
- Haney v. Pagnanelli, 830 A.2d 978, 982 (Pa. Super. Ct. 2003)
- White v. Owens-Corning Fiberglas Corp., 668 A.2d 136, 142 (Pa. Super. Ct. 1995)

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