

SUPREME COURT OF SOUTH CAROLINA

Kirby A. Oblachinski v. Dwight Raymond Reynolds, Individually and
Lexington Pediatric Practice, 391 S.C. 557

706 S.E.2d 844 (2011) · No. No. 26932 · Decided February 22, 2011

SUMMARY

The Supreme Court of South Carolina held that a physician does not owe a duty of care to a nonpatient third party for a negligent diagnosis of child sexual abuse. The court affirmed summary judgment for the physician and medical practice, concluding that policy concerns weighed against recognizing such a cause of action. A separate opinion would have recognized a duty based on reckless, rather than merely negligent, examination and diagnosis.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Hearn; Justice Beatty; Justice Kittredge; Acting Justice James E. Moore; Acting Chief Justice Pleicones
JURISDICTION	South Carolina
DECIDED	February 22, 2011
DOCKET	No. 26932
DISPOSITION	affirmed
PROCEDURAL POSTURE	Oblachinski appealed from the circuit court's grant of summary judgment to Reynolds and Lexington Pediatric Practice in a negligence action alleging negligent examination and diagnosis of child sexual abuse.
STANDARD OF REVIEW	The appellate court applies the same standard as the circuit court when reviewing summary judgment. Summary judgment is proper when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law; the evidence and reasonable inferences are viewed in the light most favorable to the nonmoving party. Whether a duty exists is a question of law for the court.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion; precedential.
PARTIES	Kirby A. Oblachinski v. Dwight Raymond Reynolds, individually, Lexington Pediatric Practice

TOPICS

medical malpractice

duty of care

summary judgment

standard of review

appellate procedure

PRACTICE AREAS

medical malpractice

professional negligence

torts

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether a physician owes a legal duty of care to a nonpatient third party who is allegedly harmed by the physician's negligent diagnosis of child sexual abuse.
2. Whether the circuit court properly granted summary judgment based on the absence of such a duty.

HOLDINGS

1. South Carolina does not recognize a cause of action by a nonpatient third party against a physician for negligent examination and diagnosis of child sexual abuse under these circumstances. The physician's duty extends only to the patient on these facts.
2. Summary judgment was proper because the absence of a duty presented a legal question and the defendants owed no duty of care to Oblachinski under the asserted negligence theory.

KEY QUOTATIONS

“An essential element in a cause of action based upon negligence is the existence of a legal duty of care owed by the defendant to the plaintiff. Without a duty, there is no actionable negligence.” (391 S.C. at 561)

“Importantly, the duty recognized in Hardee mirrored the duty owed to the patient.” (391 S.C. at 562)

“In our view, the good faith willingness of medical providers to identify the existence of sexual abuse should not be chilled or otherwise compromised by subjecting them to malpractice actions.” (391 S.C. at 563)

FACTUAL BACKGROUND

Dwight Raymond Reynolds examined a four-year-old girl for sexual abuse, diagnosed her with a torn hymen, and concluded that she had been sexually abused. Based in part on that examination, Kirby Oblachinski was indicted for criminal sexual conduct with a minor, but the charges were dropped after a second physician concluded that Reynolds had misdiagnosed the child and that the examination fell below the standard of care. Reynolds later acknowledged that the child had a normal hymen and that his diagnosis had been mistaken. Oblachinski then sued Reynolds and Lexington Pediatric Practice for negligence in examining and diagnosing the child.

PROCEDURAL HISTORY

Reynolds diagnosed a child as having been sexually abused, after which Oblachinski was indicted for criminal sexual conduct with a minor. The criminal charges were dropped after another physician concluded that Reynolds had misdiagnosed the child. Oblachinski filed a civil negligence action against the medical defendants,

and the circuit court granted summary judgment on the ground that they owed him no duty of care. The Supreme Court of South Carolina affirmed.

DISPOSITION

affirmed

CASES CITED

- Lanham v. Blue Cross & Blue Shield of S.C., Inc., 349 S.C. 356, 563 S.E.2d 331 (2002)
- Fleming v. Rose, 350 S.C. 488, 567 S.E.2d 857 (2002)
- David v. McLeod Reg'l Med. Ctr., 367 S.C. 242, 626 S.E.2d 1 (2006)
- Doe v. Greenville County Sch. Dist., 375 S.C. 63, 651 S.E.2d 305 (2007)
- Bishop v. S.C. Dep't of Mental Health, 331 S.C. 79, 502 S.E.2d 78 (1998)
- Rogers v. S.C. Dep't of Parole & Community Corrections, 320 S.C. 253, 464 S.E.2d 330 (1995)
- Hardee v. Bio-Medical Applications of S.C., Inc., 370 S.C. 511, 636 S.E.2d 629 (2006)
- Charleston Dry Cleaners & Laundry, Inc. v. Zurich American Ins. Co., 355 S.C. 614, 586 S.E.2d 586 (2003)
- South Carolina State Ports Authority v. Booz-Allen & Hamilton, Inc., 289 S.C. 373, 346 S.E.2d 324 (1986)
- Althaus ex rel. Althaus v. Cohen, 562 Pa. 547, 756 A.2d 1166 (2000)
- Vineyard v. Kraft, 828 S.W.2d 248 (Tex. App. 1992)
- Dominguez v. Kelly, 786 S.W.2d 749 (Tex. App. 1990)
- Johnston v. Sibley, 558 S.W.2d 135 (Tex. Civ. App. 1977)
- Langley v. Boyter, 284 S.C. 162, 325 S.E.2d 550 (1984), rev'd, 286 S.C. 85, 332 S.E.2d 100 (1985)
- State v. Allen, 370 S.C. 88, 634 S.E.2d 653 (2006)
- McGee v. Bruce Hosp. Sys., 321 S.C. 340, 468 S.E.2d 633 (1996)