

SUPREME COURT OF FLORIDA

Florida Dept. of Corrections v. Abril

969 So. 2d 201 (Fla. 2007) · No. SC04-1747 · Decided October 18, 2007

SUMMARY

The Supreme Court of Florida held that a healthcare laboratory or provider may be liable in negligence for unlawfully disclosing confidential HIV test results. The court concluded that violations of Florida statutory confidentiality provisions may constitute evidence of negligence and that the impact rule does not bar recovery for emotional distress arising from negligent disclosure of HIV test information. The court approved the Second District Court of Appeal's decision reversing dismissal of the action and answered the certified question in the negative.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Lewis, C.J.; Anstead, J.; Pariente, J.; Quince, J.; Cantero, J.; Wells, J.; Bell, J.
JURISDICTION	Florida
DECIDED	October 18, 2007
DOCKET	SC04-1747
DISPOSITION	approved
PROCEDURAL POSTURE	Review of a certified question of great public importance from the Second District Court of Appeal concerning whether Florida's impact rule barred emotional-distress damages arising from the negligent disclosure of HIV test results.
STANDARD OF REVIEW	De novo review of an order resolving a motion to dismiss based on the assertion that the complaint failed to state a legally cognizable cause of action.
PRECEDENTIAL VALUE	Published majority opinion of the Supreme Court of Florida; binding statewide precedent.
PARTIES	Florida Department of Corrections v. Lisa M. Abril, et vir.

TOPICS

medical records privacy

professional negligence

negligent infliction of emotional distress

writ of certiorari

appellate jurisdiction

PRACTICE AREAS

Torts

Health law

Medical malpractice

Privacy law

Appellate procedure

QUESTIONS PRESENTED

1. Whether the complaint stated a cognizable negligence or medical-malpractice claim based on the negligent disclosure of confidential HIV test results.
2. Whether Florida's impact rule barred recovery of emotional-distress damages when the alleged negligent disclosure caused no physical impact or physical injury.
3. Whether section 381.004(3)(f), Florida Statutes, supplied evidence of a duty of confidentiality and reasonable care in handling HIV test results.

HOLDINGS

1. An entity that negligently and unlawfully violates a patient's confidentiality and privacy by disclosing the patient's HIV test results may be held liable in a civil negligence action for damages caused by the unlawful disclosure.
2. Florida's impact rule does not bar recovery of emotional-distress damages for a laboratory's or other health-care provider's negligent failure to maintain the confidentiality of HIV test results, even absent physical impact or injury.

KEY QUOTATIONS

"We approve the district court's ultimate decision, answer the certified question in the negative, and hold that an entity that negligently and unlawfully violates a patient's right of confidentiality and privacy in disclosing the results of HIV testing of the patient may be held responsible in a civil negligence action for damages caused to the patient by the unlawful disclosure." (at 203)

"Section 381.004(3)(f), at a minimum, creates a reasonable standard of care for handling HIV testing results, and Continental's breach of this statute by the improper release of Abril's results may be evidence that the laboratory acted negligently." (at 205)

"Because the only reasonable damages arising from a breach of section 381.004(3)(f) are emotional distress, and because this emotional damage would be akin to that suffered by victims of defamation or invasion of privacy, we conclude they should not be barred by the impact rule." (at 208)

FACTUAL BACKGROUND

Lisa Abril, an employee of the Florida Department of Corrections, underwent HIV testing after providing mouth-to-mouth resuscitation to an inmate whose HIV status was uncertain. The clinical laboratory transmitted a document reporting a positive HIV result to unsecured fax machines at the correctional institution and Department offices, allowing unauthorized employees to learn of the result. Subsequent testing showed that the

result was a false positive, and the Abrils alleged mental anguish and emotional distress caused by the negligent failure to preserve the confidentiality of the information.

PROCEDURAL HISTORY

The Abrils filed a negligence and medical-malpractice action after a clinical laboratory transmitted Ms. Abril's HIV test results to unsecured fax machines and unauthorized Department of Corrections personnel. The trial court dismissed the action for failure to state a cause of action. The Second District reversed, reinstated the negligence action, and certified the impact-rule question to the Supreme Court of Florida. The Supreme Court approved the district court's ultimate decision and answered the certified question in the negative.

DISPOSITION

approved

CASES CITED

- Abril v. Dep't of Corr., 884 So. 2d 206 (Fla. 2d DCA 2004)
- Gracey v. Eaker, 837 So. 2d 348 (Fla. 2002)
- Clampitt v. D.J. Spencer Sales, 786 So. 2d 570 (Fla. 2001)
- McCain v. Fla. Power Corp., 593 So. 2d 500 (Fla. 1992)
- Alford v. Meyer, 201 So. 2d 489 (Fla. 1st DCA 1967)
- deJesus v. Seaboard Coast Line R.R. Co., 281 So. 2d 198 (Fla. 1973)
- State v. Johnson, 814 So. 2d 390 (Fla. 2002)
- R.J. v. Humana of Fla., Inc., 652 So. 2d 360 (Fla. 1995)
- Rowell v. Holt, 850 So. 2d 474 (Fla. 2003)
- Kush v. Lloyd, 616 So. 2d 415 (Fla. 1992)
- S. Baptist Hosp. of Fla., Inc. v. Welker, 908 So. 2d 317 (Fla. 2005)
- Murthy v. N. Sinha Corp., 644 So. 2d 983 (Fla. 1994)
- DeGregorio v. Balkwill, 853 So. 2d 371 (Fla. 2003)
- Raisen v. Raisen, 379 So. 2d 352 (Fla. 1980)
- Willis v. Gami Golden Glades, LLC, 967 So. 2d 846 (Fla. 2007)
- Champion v. Gray, 478 So. 2d 17 (Fla. 1985)