

SUPREME COURT OF VIRGINIA

Parson v. Carroll

636 S.E.2d 452 (Va. 2006) · No. Record No. 052600 · Decided November 3, 2006

SUMMARY

The Supreme Court of Virginia held that a defendant's Alford pleas, which conceded only that the evidence was sufficient to support conviction, did not constitute factual admissions supporting judicial estoppel in a later defamation action. Because material factual allegations remained disputed, the circuit court erred in granting summary judgment. The court reversed and remanded, leaving open whether the plaintiff's criminal conduct could bar recovery under the illegal-acts doctrine.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Barbara Milano Keenan; Chief Justice Hassell; Justice Lacy; Justice Keenan; Justice Kinser; Justice Lemons; Justice Agee; Senior Judge Stephenson
JURISDICTION	Virginia
DECIDED	November 3, 2006
DOCKET	Record No. 052600
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Parson appealed the circuit court's grant of summary judgment to Carroll in Parson's defamation action. The circuit court held that Parson's Alford guilty pleas to six counts of sexual battery barred the action through judicial estoppel.
STANDARD OF REVIEW	Summary judgment is appropriate only when no material facts are genuinely in dispute. The Supreme Court reviewed whether application of judicial estoppel to the Alford pleas resolved all material factual issues against Parson.
PRECEDENTIAL VALUE	Published Virginia Supreme Court opinion; precedential
PARTIES	Thomas Wesley Parson, IV v. Robert Patton Carroll

TOPICS

- summary judgment
- defamation
- civil procedure

PRACTICE AREAS

Civil procedure

Torts

Defamation

QUESTIONS PRESENTED

1. Whether an Alford guilty plea, in which the defendant concedes only that the evidence is sufficient to support a conviction, constitutes a factual position subject to judicial estoppel in a later civil defamation action.
2. Whether the circuit court properly granted summary judgment when the material factual allegations in Parson's defamation action remained disputed.

HOLDINGS

1. An Alford plea that concedes only the legal sufficiency of the evidence, without admitting participation in the criminal acts, is a position of law rather than a position of fact and therefore does not provide a basis for judicial estoppel.
2. The circuit court erred in granting summary judgment because the Alford pleas did not resolve the material factual allegations of Parson's defamation claim.

KEY QUOTATIONS

“The fundamental requirement for application of the doctrine is that the party who is the object of the estoppel request must be assuming a position of fact, rather than a position of law, which is inconsistent with a stance that the same party has taken in a prior litigation.” (at 454)

“By these representations in his criminal prosecution, Parson assumed a position of law, not a position of fact.” (at 455)

“This concession of law did not provide a basis for applying judicial estoppel in the present defamation action.” (at 455)

FACTUAL BACKGROUND

Parson, age 50, employed and befriended Carroll, who was approximately 16 years old when Carroll reported that Parson had made sexual advances and physically and sexually abused him. Parson later entered Alford pleas to six counts of sexual battery, conceding that the evidence was sufficient to convict him while maintaining that he did not participate in the charged conduct. Less than five months later, Parson sued Carroll for defamation based on statements concerning the alleged abuse and sexual conduct.

PROCEDURAL HISTORY

After Parson pleaded guilty pursuant to Alford to six sexual-battery charges, he filed a defamation action alleging that Carroll made false statements that Parson had sexually and physically abused him. Carroll moved for summary judgment, and the circuit court granted the motion on the ground that the Alford pleas barred the action. The Supreme Court of Virginia reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including determining whether the allegedly defamatory statements concerned the same conduct to which Parson pleaded guilty and addressing any remaining issues, including the possible application of *Zysk v. Zysk*.

CASES CITED

- *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970)
- *Bentley Funding Group, L.L.C. v. SK & R Group, L.L.C.*, 269 Va. 315, 609 S.E.2d 49 (2005)
- *Lofton Ridge, LLC v. Norfolk Southern Railway Co.*, 268 Va. 377, 601 S.E.2d 648 (2004)
- *New Hampshire v. Maine*, 532 U.S. 742, 121 S. Ct. 1808, 149 L. Ed. 2d 968 (2001)
- *Kaiser v. Bowlen*, 455 F.3d 1197 (10th Cir. 2006)
- *Stallings v. Hussmann Corp.*, 447 F.3d 1041 (8th Cir. 2006)
- *Carroll v. United Compucred Collections, Inc.*, 399 F.3d 620 (6th Cir. 2005)
- *King v. Herbert J. Thomas Memorial Hospital*, 159 F.3d 192 (4th Cir. 1998)
- *Klaiber v. Freemason Associates*, 266 Va. 478, 587 S.E.2d 555 (2003)
- *Turner v. Lotts*, 244 Va. 554, 422 S.E.2d 765 (1992)
- *Thurmond v. Prince William Professional Baseball Club, Inc.*, 265 Va. 59, 574 S.E.2d 246 (2003)
- *The Pittston Co. v. O'Hara*, 191 Va. 886, 63 S.E.2d 34 (1951)
- *Patterson v. Commonwealth*, 262 Va. 301, 551 S.E.2d 332 (2001)
- *Reid v. Commonwealth*, 256 Va. 561, 506 S.E.2d 787 (1998)
- *Zigta v. Commonwealth*, 38 Va. App. 149, 562 S.E.2d 347 (2002)
- *Perry v. Commonwealth*, 33 Va. App. 410, 533 S.E.2d 651 (2000)
- *Calcote v. Fraser Forbes Co.*, 270 Va. 399, 621 S.E.2d 403 (2005)
- *Scales v. Lewis*, 261 Va. 379, 541 S.E.2d 899 (2001)
- *Zysk v. Zysk*, 239 Va. 32, 404 S.E.2d 721 (1990)