

DISTRICT OF COLUMBIA COURT OF APPEALS

Oparaugo Udebiuwa v. District of Columbia Board of Medicine

818 A.2d 160 (D.C. 2003) · No. No. 01-AA-1134 · Decided March 13, 2003

SUMMARY

The District of Columbia Court of Appeals affirmed the Board of Medicine’s disciplinary decision against Dr. Oparaugo Udebiuwa for an inappropriate social and sexual relationship with a former psychiatric patient. The court held that a malpractice judgment later satisfied through settlement remained operative because it had not been vacated, and that the judgment could be given preclusive effect through offensive nonmutual collateral estoppel. The court also rejected challenges based on administrative delay, witness disqualification, and an allegedly erroneous notice regarding a National Practitioner Data Bank report.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Glickman, Associate Judge; Terry, Associate Judge; Schwelb, Associate Judge
JURISDICTION	District of Columbia
DECIDED	March 13, 2003
DOCKET	No. 01-AA-1134
DISPOSITION	affirmed
PROCEDURAL POSTURE	Dr. Udebiuwa appealed the District of Columbia Board of Medicine's disciplinary decision to the District of Columbia Court of Appeals.
STANDARD OF REVIEW	The court reviewed whether the Board abused its discretion in applying offensive nonmutual collateral estoppel and otherwise reviewed the Board's decision under applicable administrative-law principles. It applied a presumption that the Board acted fairly regarding the testimony of its Executive Director.
PRECEDENTIAL VALUE	Published opinion; precedential value not otherwise specified in the text.
PARTIES	Oparaugo Udebiuwa v. District of Columbia Board of Medicine

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QUESTIONS PRESENTED

1. Whether the post-trial settlement and praecipe vacated or otherwise eliminated the malpractice judgment so that the Board of Medicine could not give it preclusive effect.
2. Whether the Board abused its discretion by applying offensive nonmutual collateral estoppel to establish that Udebiuwa had an inappropriate relationship with a patient.
3. Whether delays in the administrative proceeding required relief or dismissal.
4. Whether the Executive Director of the Office of Professional Licensing was disqualified from testifying because of his administrative duties for the Board.
5. Whether an alleged error in the notice of proposed disciplinary action concerning a report to the National Practitioner Data Bank required reversal.

HOLDINGS

1. The malpractice judgment remained effective because the Superior Court never vacated it; settlement and the filing of a vacatur request did not themselves eliminate the judgment.
2. The Board did not abuse its discretion by giving preclusive effect to the final malpractice judgment to establish that Udebiuwa had an inappropriate relationship with a patient.
3. The Board's failure to meet statutory and regulatory decision deadlines did not entitle Udebiuwa to relief because he did not show prejudice.
4. The Executive Director was not disqualified from testifying about the malpractice lawsuit and related matters because he had no adjudicatory role and his administrative duties did not overcome the presumption that the Board acted fairly.
5. Any error in the notice stating that Howard University had reported the malpractice settlement to the National Practitioner Data Bank was immaterial because Udebiuwa was not disciplined for conduct relating to that report.

KEY QUOTATIONS

“But though the settlement satisfied the judgment against Dr. Udebiuwa and (HUH), it did not eliminate that judgment.” (at 162)

“Where mootness results from settlement, however, the losing party has voluntarily forfeited his legal remedy by the ordinary processes of appeal or certiorari, thereby surrendering his claim to the equitable remedy of vacatur.” (at 163)

“The Board therefore did not abuse its discretion by giving preclusive effect to the malpractice judgment on that issue.” (at 164)

FACTUAL BACKGROUND

Dr. Oparaugo Udebiuwa, a physician, engaged in an inappropriate social and sexual relationship with a former psychiatric patient. In the patient's malpractice action, a Superior Court jury found against Udebiuwa and Howard University Hospital and judgment was entered for \$2.3 million. The parties later settled for \$1.5 million and requested vacatur, but the judgment was never vacated; the Board of Medicine then used the judgment's factual determinations to establish misconduct in the disciplinary proceeding.

PROCEDURAL HISTORY

A D.C. Superior Court jury found Dr. Udebiuwa and Howard University Hospital liable in a former patient's malpractice action and judgment was entered for \$2.3 million. While an appeal was pending, the parties settled for \$1.5 million and filed a praecipe stating that the judgment was to be vacated, but the Superior Court took no action to vacate it. The Board of Medicine relied on the malpractice judgment and its factual determinations to discipline Dr. Udebiuwa. The Court of Appeals affirmed the Board's order.

DISPOSITION

affirmed

CASES CITED

- Milar Elevator Co. v. District of Columbia Department of Employment Services, 704 A.2d 291, 292-93 (D.C. 1997)
- U.S. Bancorp Mortgage Co. v. Bonner Mall Partnership, 513 U.S. 18, 25-29 (1994)
- Izumi Seimitsu Kogyo Kabushiki Kaisha v. U.S. Philips Corp., 510 U.S. 27, 40 (1993) (Stevens, J., dissenting)
- In re Memorial Hospital of Iowa County, Inc., 862 F.2d 1299, 1302-03 (7th Cir. 1988)
- Ali Baba Co. v. WILCO, Inc., 482 A.2d 418, 421-22 (D.C. 1984)
- Parklane Hosiery Co. v. Shore, 439 U.S. 322, 331-32 (1979)
- Wisconsin Avenue Nursing Home v. District of Columbia Commission on Human Rights, 527 A.2d 282, 285 (D.C. 1987)
- Mannan v. District of Columbia Board of Medicine, 558 A.2d 329, 334 (D.C. 1989)
- Salama v. District of Columbia Board of Medicine, 578 A.2d 693, 695 n. 1 (D.C. 1990)
- Nelson v. District of Columbia, 772 A.2d 1154, 1156 (D.C. 2001)
- Harris v. District of Columbia Rental Housing Commission, 505 A.2d 66, 71 (D.C. 1986)
- Park v. District of Columbia Alcoholic Beverage Control Board, 555 A.2d 1029, 1032 (D.C. 1989)
- Allen v. United States, 603 A.2d 1219, 1228-29 & n. 20 (D.C. 1992) (en banc)
- Smith v. Smith, 310 A.2d 229, 231 (D.C. 1973)
- District of Columbia v. Wical Ltd. Partnership, 630 A.2d 174, 182 (D.C. 1993)
- Younger v. Smith, 30 Cal. App. 3d 138, 153, 106 Cal. Rptr. 225, 235 (1973)
- Johnson v. Morris, 87 Wash. 2d 922, 557 P.2d 1299, 1305 (1976) (en banc)

- Local No. 8-6, Oil, Chemical and Atomic Workers International Union v. Missouri, 361 U.S. 363, 367-68 (1960)

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