

SUPREME COURT OF OHIO

Harris v. Mt. Sinai Medical Center

116 Ohio St. 3d 139 (Ohio 2007) · Decided October 25, 2007

SUMMARY

The Ohio Supreme Court held that when a trial court grants a new trial based on grounds requiring the exercise of discretion, an appellate court must defer to that decision if it is supported by competent, credible evidence. The court reinstated the trial court’s order granting a new trial based on excessive damages, passion or prejudice, and misconduct by counsel, concluding that remittitur was not an appropriate remedy. It also affirmed the appellate court’s ruling that the hospital’s agency-by-estoppel argument was not barred merely because an allegedly negligent physician was not joined as a party.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Donnell, J.; Moyer, C.J.; Lundberg Stratton, J.; O'Connor, J.; Lanzinger, J.; Cupp, J.; Pfeifer, J.
JURISDICTION	Ohio
DECIDED	October 25, 2007
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendants appealed from a court of appeals judgment reversing the trial court's order granting a new trial after a \$30 million medical-malpractice jury verdict. The Supreme Court of Ohio also considered the hospital's argument concerning agency by estoppel and denial of its motion for judgment notwithstanding the verdict.
STANDARD OF REVIEW	A trial court's order granting a new trial on grounds requiring the exercise of sound discretion is reviewed for abuse of discretion. When competent, credible evidence supports the trial court's finding of an excessive verdict influenced by passion or prejudice or misconduct of counsel, the reviewing court must defer to the trial court and may not independently reassess whether the jury verdict was supported by competent, credible evidence.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	Mt. Sinai Medical Center, Ronald Jordan, M.D., Northeast Ohio Neighborhood Health Services, Inc. v. Regina Harris, as guardian of

TOPICS

motion for new trial

standard of review

medical malpractice

appellate procedure

remedies

PRACTICE AREAS

medical malpractice

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. What standard governs appellate review of a trial court's order granting a new trial under Ohio Civ.R. 59?
2. Whether competent, credible evidence supported the trial court's findings that the verdict was excessive and influenced by passion or prejudice and that plaintiff's counsel's misconduct tainted the verdict.
3. Whether remittitur was an appropriate remedy instead of a new trial.
4. Whether the hospital could be subject to agency-by-estoppel liability despite the plaintiff's failure to join the allegedly negligent independent physician as a party.

HOLDINGS

1. When a trial court exercises discretion to grant a new trial and its decision is supported by competent, credible evidence, the reviewing court must defer to the trial court and may reverse only for an abuse of discretion; it may not independently assess whether the jury verdict was supported by competent, credible evidence.
2. The trial court did not abuse its discretion in granting a new trial because competent, credible evidence supported its finding that improper expert testimony materially inflated the economic-damages evidence and contributed to a verdict influenced by passion or prejudice.
3. A trial court may grant a new trial when misconduct by the prevailing party's counsel affects the outcome by creating an atmosphere surcharged with passion or prejudice, and competent, credible evidence supported that determination here.
4. Remittitur is not an appropriate remedy when passion or prejudice and counsel misconduct taint the liability finding as well as the amount of damages.
5. The failure to join an allegedly negligent independent physician does not itself render an agency-by-estoppel claim against a hospital inapplicable when the claim may be based on the negligence of other hospital personnel, such as attending nurses.

KEY QUOTATIONS

“When in the exercise of discretion a trial court decides to grant a new trial and that decision is supported by competent, credible evidence, a reviewing court must defer to the trial court.” (at 146)

“In such a case, the reviewing court may not independently assess whether the verdict was supported by the evidence, because the issue is not whether the verdict is supported by competent, credible evidence, but rather whether the court’s decision to grant the new trial is supported by competent, credible evidence.” (at 146)

FACTUAL BACKGROUND

Walter Hollins was born by Cesarean section in 1987 and sustained severe, permanent injuries, including mental retardation. His guardian alleged that negligence by the delivering physician, the physician's employer, and hospital personnel caused a delay in the procedure, while defendants attributed the condition to intrauterine growth retardation and birth asphyxia. After a three-week trial, the jury awarded \$30 million, including \$15 million in economic damages and \$15 million in noneconomic damages. The trial court found that improper expert testimony, counsel misconduct, and trial irregularities tainted the verdict.

PROCEDURAL HISTORY

The jury returned a \$30 million verdict for the plaintiff. The trial court granted defendants' motions for a new trial based on excessive damages influenced by passion or prejudice, misconduct of plaintiff's counsel, evidentiary error, and trial irregularities, while denying other motions as moot. After the trial judge recused himself, a successor judge granted relief from judgment and reinstated the verdict. The court of appeals treated the relief-from-judgment motion as a nullity, affirmed several rulings, reversed the new-trial order, and remanded for consideration of remittitur. The Supreme Court of Ohio reversed the court of appeals and reinstated the new-trial order, while affirming its ruling concerning agency by estoppel.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The judgment of the court of appeals was reversed and the trial court's order granting a new trial was reinstated. Questions concerning the admissibility of evidence regarding Dr. Hatoum's alleged negligence were left to the trial court in further proceedings.

CASES CITED

- McLeod v. Mt. Sinai Med. Ctr., 166 Ohio App. 3d 647, 852 N.E.2d 1235 (2006)
- Rohde v. Farmer, 23 Ohio St. 2d 82, 262 N.E.2d 685 (1970)
- Blakemore v. Blakemore, 5 Ohio St. 3d 217, 450 N.E.2d 1140 (1983)
- State v. Adams, 62 Ohio St. 2d 151, 404 N.E.2d 144 (1980)
- Pesek v. Univ. Neurologists Assn., Inc., 87 Ohio St. 3d 495, 721 N.E.2d 1011 (2000)
- Warder, Bushnell & Glessner Co. v. Jacobs, 58 Ohio St. 77, 50 N.E. 97 (1898)
- Mannion v. Sandel, 91 Ohio St. 3d 318, 744 N.E.2d 759 (2001)
- Stephens v. Vick Express, Inc., 2003-Ohio-1611
- Lance v. Leohr, 9 Ohio App. 3d 297, 459 N.E.2d 1315 (1983)

- Jones v. Macedonior-Northfield Banking Co., 132 Ohio St. 341, 7 N.E.2d 544 (1937)
- Wightman v. Consol. Rail Corp., 86 Ohio St. 3d 431, 715 N.E.2d 546 (1999)
- Dardinger v. Anthem Blue Cross & Blue Shield, 98 Ohio St. 3d 77, 781 N.E.2d 121 (2002)
- Comer v. Risko, 106 Ohio St. 3d 185, 833 N.E.2d 712 (2005)
- Clark v. Southview Hosp. & Family Health Ctr., 68 Ohio St. 3d 435, 628 N.E.2d 46 (1994)
- Estate of Cowling v. Estate of Cowling, 109 Ohio St. 3d 276, 847 N.E.2d 405 (2006)

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