

SUPREME COURT OF THE STATE OF DELAWARE

Fowler v. Pratcher Kraye LLC

No. No. 213, 2020, Supreme Court of the State of Delaware (February 15, 2021)

SUMMARY

The Delaware Supreme Court affirmed the Superior Court's decision upholding a Court of Common Pleas judgment concerning the fee owed to a law firm for representing Stanford Fowler in a personal injury matter. The court also denied Fowler's motion to disqualify the firm's partner from representing the appellee, concluding that Fowler had waived the objection and had not otherwise established a basis for disqualification.

CASE DETAILS

COURT	Supreme Court of the State of Delaware
WRITING FOR THE COURT	Collins J. Seitz, Jr., Chief Justice; Karen L. Valihura, Justice; Montgomery-Reeves, Justice
JURISDICTION	Delaware
DECIDED	February 15, 2021
DOCKET	No. 213, 2020
DISPOSITION	affirmed
PROCEDURAL POSTURE	Fowler appealed the Superior Court's affirmance of a post-trial judgment entered by the Court of Common Pleas and moved to disqualify Samuel D. Pratcher from representing Pratcher Kraye LLC on appeal.
STANDARD OF REVIEW	On appeal from the Court of Common Pleas through the Superior Court, the Supreme Court reviews for legal error and whether the trial judge's factual findings are sufficiently supported by the record and result from an orderly and logical deductive process; it applies the same standard to the Superior Court's decision.
PRECEDENTIAL VALUE	Published Delaware Supreme Court order; precedential status is not expressly stated in the opinion text.
PARTIES	Stanford Fowler v. Pratcher Kraye LLC

TOPICS

appellate procedure

standard of review

waiver

evidence

attorney fees

PRACTICE AREAS

appellate procedure

legal ethics

attorney fees

evidence

contracts

QUESTIONS PRESENTED

1. Whether the Superior Court properly affirmed the Court of Common Pleas' post-trial judgment and factual findings concerning the attorney fee dispute.
2. Whether Fowler waived any objection to Dawn Becker's testimony by requesting permission to call her as a witness despite her not having been identified before trial.
3. Whether Samuel D. Pratcher should be disqualified from representing Pratcher Kraye LLC because he was a partner of the firm and allegedly stood to benefit financially from the outcome.

HOLDINGS

1. The Superior Court properly affirmed the Court of Common Pleas' judgment because the challenged factual findings were supported by the record and resulted from an orderly and logical reasoning process.
2. Fowler waived any objection based on Becker's not having been identified as a witness before trial because he requested permission to call her as a witness.
3. The motion to disqualify Pratcher was denied because Fowler had not objected to his representation at trial and therefore waived the objection, and Fowler in any event failed to establish a basis for disqualification under the circumstances.

KEY QUOTATIONS

“In an appeal from the Court of Common Pleas to the Superior Court, the standard of review is whether there is legal error and whether the factual findings made by the trial judge are sufficiently supported by the record and are the product of an orderly and logical deductive process.” (at 2)

“Waiver is a valid basis for denial of a motion to disqualify.” (at 3)

FACTUAL BACKGROUND

The dispute concerned the amount of the fee Pratcher Kraye LLC was entitled to receive for representing Fowler in connection with a personal-injury claim. Fowler challenged the Court of Common Pleas' factual findings and objected to testimony by Dawn Becker, although he had requested permission to call Becker as a witness. Fowler also sought to disqualify Samuel D. Pratcher, a partner of the appellee law firm, based on an alleged conflict arising from his financial interest in the outcome.

PROCEDURAL HISTORY

The Court of Common Pleas entered post-trial judgment concerning the fee owed to Pratcher Kraye LLC for representing Fowler in a personal-injury matter. The Superior Court affirmed on May 18, 2020. The Delaware

Supreme Court affirmed the Superior Court's decision and denied Fowler's disqualification motion.

DISPOSITION

affirmed

CASES CITED

- Fowler v. Pratcher Kraye, LLC, 2020 WL 2520273 (Del. Super. Ct. May 18, 2020)
- Shaw v. Nationwide Ins. Co., 2012 WL 3115519, at *1 (Del. July 31, 2012)
- Copeland v. Manuel, 1994 WL 665257, at *2 (Del. Nov. 22, 1994)
- Conley v. Chaffinch, 431 F. Supp. 2d 494, 498 (D. Del. 2006)

OPINION

PER CURIAM.

IN THE SUPREME COURT OF THE STATE OF DELAWARE STANFORD FOWLER, § § No. 213, 2020 Plaintiff Below, § Appellant, § Court Below—Superior Court § of the State of Delaware v. § § PRATCHER KRAYE, LLC, § C.A. No. N19A-08-002 § Defendant Below, § Appellee. § Submitted: January 8, 2021 Decided: February 15, 2021 Before SEITZ, Chief Justice; VALIHURA and MONTGOMERY-REEVES, Justices.

ORDER (1) The appellant, Stanford Fowler, appeals from the Superior Court's opinion, dated May 18, 2020,¹ affirming the post-trial judgment of the Court of Common Pleas. On August 20, 2020, this Court entered an order deferring decision on a motion in which Fowler contended that Samuel D. Pratcher, Esquire, should not be permitted to represent the appellee in this appeal (the "Disqualification Motion").

The appellee is a law firm of which Pratcher is a partner. The dispute in 1 Fowler v. Pratcher Kraye, LLC, 2020 WL 2520273 (Del. Super. Ct. May 18, 2020). this litigation concerns the amount of the fee to which the appellee is entitled for representing Fowler in connection with a personal injury claim.

(2) After consideration of the appellant's arguments and the record on appeal, we AFFIRM on the basis of the Superior Court's opinion. Fowler disagrees with the factual findings of the Court of Common Pleas, but we conclude, as did the Superior Court, that those factual findings are supported by the record and are the product of an orderly and logical reasoning process.² To the extent that Fowler argues that Dawn Becker should not have been permitted to testify, review of the trial transcript confirms that Fowler requested permission to call Becker as a witness.³ Thus, he waived any objection he may have had based on that fact that neither party had identified her as a witness before trial.

(3) Finally, the Disqualification Motion is DENIED. Fowler argues that Pratcher's representation of the appellee law firm presents a conflict of interest because Pratcher, as a partner of the firm, seeks to benefit financially from the outcome of this case.

As an initial matter, it does not appear that Fowler objected to Pratcher's representation of the appellee at trial, and he therefore waived his 2 See *Shaw v. Nationwide Ins. Co.*, 2012 WL 3115519, at *1 (Del. July 31, 2012) ("In an appeal from the Court of Common Pleas to the Superior Court, the standard of review is whether there is legal error and whether the factual findings made by the trial judge are sufficiently supported by the record and are the product of an orderly and logical deductive process.

This Court applies the same standard of review to the Superior Court's decision." (citations omitted)). 3 Appendix to Answering Brief at B-0055-57. 2 objection to Pratcher's participation.4 In any event, we find that Fowler has not established a basis for disqualifying Pratcher in the circumstances of this case.5 IT IS SO ORDERED. BY THE COURT: /s/ Collins J. Seitz, Jr. Chief Justice 4 Cf. *Copeland v. Manuel*, 1994 WL 665257, at *2 (Del.

Nov. 22, 1994) ("A party who fails to raise a disqualification issue may not seek to set aside the results of a trial when knowledge of the disqualification was known to the party during trial."); *Conley v. Chaffinch*, 431 F. Supp. 2d 494, 498 (D. Del. 2006) ("Waiver is a valid basis for denial of a motion to disqualify."). 5 See DEL. R. PROF'L COND. R. 1.6(b)(5) & Cmt.

11 (providing that a lawyer may reveal information relating to the representation of a client to the extent the lawyer believes reasonably necessary "to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client"). 3