

SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia ex rel. West Virginia University Hospitals, Inc., d/b/a Chestnut Ridge Center and West Virginia University Board of Governors v. The Honorable Lynn A. Nelson, Judge of the Circuit Court of Tucker County, and Mark Heckler, Individually and as Personal Representative and Administrator of the Estate of Marion Heckler, deceased

State ex rel. W. Va. Univ. Hosps. v. Nelson · No. No. 20-0906 · Decided May 10, 2021

SUMMARY

The Supreme Court of Appeals of West Virginia granted a writ of prohibition concerning venue in a third-party medical negligence action under West Virginia Code § 55-7B-9b. The court held that the cause of action arose in the county where the healthcare provider rendered or failed to render the allegedly willful, wanton, or reckless healthcare services, making venue proper in Monongalia County rather than Tucker County.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Walker
JURISDICTION	West Virginia
DECIDED	May 10, 2021
DOCKET	No. 20-0906
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petitioners sought an original writ of prohibition after the Circuit Court of Tucker County denied their motion to dismiss a third-party medical negligence action for improper venue or, alternatively, to transfer the action to Monongalia County.
STANDARD OF REVIEW	In a prohibition proceeding alleging that a lower tribunal exceeded its legitimate powers, the court considers the five Hoover factors. Although all five factors need not be satisfied, clear legal error receives substantial weight. The court also treats venue-related error as appropriate for resolution through original jurisdiction when the error

	cannot be adequately corrected on appeal and litigating in an improper forum creates prejudice.
PRECEDENTIAL VALUE	published
PARTIES	State of West Virginia ex rel. West Virginia University Hospitals, Inc., d/b/a Chestnut Ridge Center, West Virginia University Board of Governors v. The Honorable Lynn A. Nelson, Judge of the Circuit Court of Tucker County, Mark Heckler, individually and as personal representative and administrator of the Estate of Marion Heckler, deceased

TOPICS

venue medical malpractice statutory interpretation writ of certiorari appellate procedure

PRACTICE AREAS

civil procedure medical malpractice appellate procedure health law remedies

QUESTIONS PRESENTED

1. Whether the Supreme Court of Appeals of West Virginia should issue a writ of prohibition to review the circuit court's venue ruling.
2. Whether venue for a third-party medical negligence claim under West Virginia Code § 55-7B-9b arises in the county where the healthcare provider rendered or failed to render the allegedly wrongful healthcare services or in the county where the third party suffered the resulting harm.
3. Whether the common-law divisibility-of-elements venue principles applied in breach-of-contract and legal-malpractice cases permit venue in Tucker County based solely on the location of the third party's death.

HOLDINGS

1. A writ of prohibition may issue where the circuit court's venue ruling constitutes clear legal error and the petitioner lacks an adequate remedy by appeal or would suffer prejudice from litigating in an improper forum.
2. When venue is challenged under West Virginia Rule of Civil Procedure 12(b)(3), the plaintiff bears the burden of establishing proper venue in the county where the action is pending under West Virginia Code § 56-1-1.
3. For purposes of determining venue, a third-party medical negligence claim under West Virginia Code § 55-7B-9b arises only in the county where the healthcare provider rendered or failed to render healthcare services with the alleged willful, wanton, or reckless disregard of a foreseeable risk of harm to third persons.

4. The court's holding does not preclude application of the venue-giving defendant principle under West Virginia Code § 56-1-1 if the patient who committed the subsequent act is added as a properly joined defendant.

KEY QUOTATIONS

“An allegation that “the health care provider rendered or failed to render health care services in willful and wanton or reckless disregard of a foreseeable risk of harm to third persons” is indispensable to maintaining a third-party medical negligence claim.” (11)

“As a result, we hold that for purposes of determining venue, the cause of action for a third-party medical negligence claim pursued under West Virginia Code § 55-7B-9b (2003) arises in the county where the provider rendered or failed to render healthcare services with allegedly willful and wanton or reckless disregard of a foreseeable risk of harm to third persons.” (13)

FACTUAL BACKGROUND

Emily Heckler received approximately two weeks of inpatient psychiatric treatment at Chestnut Ridge Center in Morgantown, Monongalia County. She was discharged in Monongalia County to her father, Mark Heckler, and returned with him to Tucker County. Two days later, she stabbed and killed her stepmother, Marion Heckler, in Tucker County. The estate alleged that the healthcare providers prematurely discharged Emily despite knowledge of homicidal ideations toward Marion and pursued a third-party medical negligence claim under West Virginia Code § 55-7B-9b.

PROCEDURAL HISTORY

Mark Heckler filed a third-party medical negligence action in Tucker County against West Virginia University Hospitals and the West Virginia University Board of Governors. The circuit court denied the defendants' motion challenging venue, finding venue proper under a substantial-harm theory. The defendants petitioned the Supreme Court of Appeals of West Virginia for a writ of prohibition, which the court granted.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Circuit Court of Tucker County was directed to dismiss the underlying action for improper venue without prejudice or, alternatively, transfer venue to Monongalia County.

CASES CITED

- State ex rel. Hoover v. Berger, 199 W. Va. 12, 483 S.E.2d 12 (1996)
- State ex rel. Ferrell v. McGraw, 243 W. Va. 76, 842 S.E.2d 445 (2020)
- State ex rel. Peacher v. Sencindiver, 160 W. Va. 314, 233 S.E.2d 425 (1977)
- State ex rel. Thornhill Group, Inc. v. King, 233 W. Va. 564, 759 S.E.2d 795 (2014)

- State ex rel. Riffle v. Ranson, 195 W. Va. 121, 464 S.E.2d 763 (1995)
- State ex rel. Huffman v. Stephens, 206 W. Va. 501, 526 S.E.2d 23 (1999)
- Wetzel County Savings & Loan Co. v. Stern Brothers, Inc., 156 W. Va. 693, 195 S.E.2d 732 (1973)
- McGuire v. Fitzsimmons, 197 W. Va. 132, 475 S.E.2d 132 (1996)
- Jewell v. Peterson, No. 11-1354, 2012 WL 5834889 (W. Va. Nov. 6, 2012)
- Osborne v. United States, 211 W. Va. 667, 567 S.E.2d 677 (2002)
- State ex rel. Energy Corp. of America v. Marks, 235 W. Va. 465, 774 S.E.2d 546 (2015)

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