SUPREME COURT OF APPEALS OF WEST VIRGINIA

Putnam Bancshares, Inc. v. Progressive Classic Insurance Co., 225 W. Va. 279

692 S.E.2d 658 (2010) · No. No. 34769 · Decided April 5, 2010

SUMMARY

The Supreme Court of Appeals of West Virginia held that an automobile insurance policy expired on its stated expiration date when the insured did not timely pay the renewal premium. The insurer was not required to provide cancellation or nonrenewal notice to the insured or loss payee because the policy expired by its own terms rather than being cancelled or affirmatively nonrenewed. The court further held that subsequent reinstatement within the statutory period was not retroactive, leaving no coverage for an accident occurring during the lapse.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Ketchum, J.
JURISDICTION	West Virginia
DECIDED	April 5, 2010
DOCKET	No. 34769
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Progressive appealed the Circuit Court of Putnam County's order granting T.C.'s Used Cars summary judgment for $14,390.43, plus interest and costs, on an automobile insurance coverage claim.
STANDARD OF REVIEW	Summary judgment is reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Appeals of West Virginia.
PARTIES	Progressive Classic Insurance Company v. Putnam Bancshares, Inc., d/b/a Putnam County Bank, T.C.'s Used Cars, LLC

TOPICS

insurance coverage · statutory interpretation · casualty insurance litigation · standard of review · appellate procedure

PRACTICE AREAS

insurance coverage | insurance law | statutory interpretation | contracts | commercial litigation

QUESTIONS PRESENTED

1. Whether an insurer must provide cancellation notice when an automobile insurance policy expires by its own terms because the insured did not timely accept an offer to renew by paying the renewal premium.
2. Whether the insurer must notify a loss payee that the insured did not renew the policy and that coverage expired.
3. Whether payment of the renewal premium after the accident required Progressive to provide coverage for the accident.
4. Whether the circuit court properly applied Dairyland Insurance Co. v. Conley to treat the renewal offer as issuance of a new policy.

HOLDINGS

1. When an automobile liability or physical-damage insurance policy expires on its own terms because the insured did not timely pay the renewal premium, the insurer has no duty under W. Va. Code §§ 33-6A-1 or 33-6A-4 to provide notice that the policy has expired.
2. When an insurer offers to renew an automobile liability or physical-damage policy, but the insured does not accept the offer and the underlying policy expires, W. Va. Code § 33-6A-1a does not require the insurer to notify the loss payee that the policy was not renewed or that coverage expired.
3. An insured may reinstate an automobile liability or physical-damage policy that was not renewed for failure to pay the renewal premium if the insured applies for reinstatement and pays the premium within forty-five days after expiration, but the reinstated coverage is prospective and does not cover the lapse period.
4. A renewal offer accompanied by renewal documentation does not itself constitute issuance of a new policy where the insured has not paid the required renewal premium.

KEY QUOTATIONS

> *"Accordingly, we hold that where an insurance company has extended an offer to renew an automobile liability or physical damage insurance policy, and the insured does not accept that offer and does not pay the premium due for renewal, thus allowing the underlying policy to expire, neither W.Va.Code, 33-6A-1 [2004], nor W.Va.Code, 33-6A-4 [2004], impose a duty upon the insurance company to provide a notice to the insured that the policy has expired."* (662)

> *"If the policy is reinstated, then there is a lapse in coverage between the date of the expiration of the policy and the reinstatement date."* (663)

FACTUAL BACKGROUND

In August 2006, Terry Daniel purchased a vehicle financed by Putnam County Bank, and Progressive issued a six-month automobile liability and physical-damage policy listing the bank as loss payee. Progressive offered to renew the policy for an additional period, but Daniel did not pay the renewal premium by the due date, and the original policy expired on February 23, 2007. Daniel had an accident causing a total loss on February 27, then paid the renewal premium on February 28; the payment reinstated coverage prospectively and did not cover the accident during the lapse.

PROCEDURAL HISTORY

Terry Daniel's vehicle was damaged in an accident after his original six-month policy expired and before he paid the premium required to renew or reinstate coverage. The circuit court concluded that Progressive had effectively issued a renewal policy, failed to provide required cancellation notices to Daniel and the loss payee, and granted summary judgment to T.C.'s Used Cars. The Supreme Court of Appeals of West Virginia reversed and remanded for entry of summary judgment in favor of Progressive.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for entry of summary judgment in favor of Progressive.

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Dairyland Insurance Co. v. Conley, 218 W. Va. 252, 624 S.E.2d 599 (2005)
- Farmers' and Merchants' Bank v. Balboa Insurance Co., 171 W. Va. 390, 299 S.E.2d 1 (1982)