

OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

Blinn v. Balint

2014-Ohio-3114 (Ohio Ct. App. 2014) · No. 26733 · Decided July 16, 2014

SUMMARY

The Ninth District Court of Appeals of Ohio affirmed a jury verdict in favor of Robert Blinn, who alleged that injuries to his rotator cuff resulted from a vehicle collision caused by Mark Balint. The court held that the trial court properly admitted the defense medical expert’s testimony under Ohio Evid.R. 703 and 702(C), concluding that the expert’s opinion relied in major part on perceived or properly admitted medical information and reliable methodology.

CASE DETAILS

COURT	Ohio Court of Appeals, Ninth Judicial District
WRITING FOR THE COURT	Eve V. Belfance; Moore, Presiding Judge; Carr, Judge
JURISDICTION	Ohio
DECIDED	July 16, 2014
DOCKET	26733
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed after a jury trial and judgment in the Summit County Court of Common Pleas. The trial court directed a verdict finding Balint at fault for the accident, while the jury determined causation and damages.
STANDARD OF REVIEW	Evidentiary rulings concerning the admissibility of expert testimony are reviewed for abuse of discretion. Under Civ.R. 61, evidentiary error is harmless if it does not affect the substantial rights of the parties.
PRECEDENTIAL VALUE	published
PARTIES	Robert Blinn v. Mark A. Balint

TOPICS

- expert testimony
- evidence
- harmless error
- standard of review
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by admitting orthopedic expert testimony under Evid.R. 703 and 705 when the expert relied on medical records, an MRI personally viewed by him, and an x-ray report whose underlying x-ray was not admitted.
2. Whether the orthopedic expert's testimony was based on reliable scientific, technical, or specialized information under Evid.R. 702(C).
3. Whether admission of the defense medical billing expert's testimony violated Evid.R. 703 and 705 and, if so, whether the error was harmless.

HOLDINGS

1. The trial court did not abuse its discretion in admitting Dr. Gordon's opinion because Evid.R. 703 is satisfied when an expert bases an opinion, at least in major part, on facts or data personally perceived by the expert or admitted into evidence. Personally viewing an MRI constitutes perception under the rule, and the x-ray report's contents were introduced through trial testimony.
2. The trial court did not abuse its discretion in finding Dr. Gordon's testimony reliable under Evid.R. 702(C). The rule concerns whether the expert used scientifically valid principles and methods, not whether the expert's ultimate conclusion was correct.
3. Any assumed error in admitting the medical billing expert's testimony under Evid.R. 703 and 705 was harmless because the jury's \$200 award demonstrated that it did not rely on that expert's valuation of Blinn's medical expenses.

KEY QUOTATIONS

“Viewing an MRI is akin to examining a patient. The expert is viewing the tangible data and facts concerning the person’s physical condition, not some other person’s interpretation of them.” (§ 17)

“The question to be answered under Evid. R. 702(C) is whether Dr. Gordon’s opinion is based upon valid principles and methods, not whether his opinion is correct.” (§ 32)

FACTUAL BACKGROUND

On November 17, 2007, Mark Balint's vehicle struck Robert Blinn's vehicle as Balint exited a parking lot and turned left. Blinn later developed left shoulder pain and was diagnosed with a rotator cuff tear, for which he underwent two surgeries. Blinn had a documented history of left shoulder pain and treatment predating the accident, and the parties disputed whether the tear was caused by the collision or preexisted it. The jury found for Blinn but awarded only \$200 in damages.

PROCEDURAL HISTORY

Blinn initially filed an action that he voluntarily dismissed without prejudice in May 2010. He refiled in January 2011 against Balint and several insurance companies; the insurance companies were later dismissed. After trial,

the court directed a verdict on Balint's fault, and the jury found for Blinn but awarded only \$200. The Ninth District Court of Appeals overruled all three assignments of error and affirmed.

DISPOSITION

affirmed

CASES CITED

- Valentine v. Conrad, 110 Ohio St.3d 42, 2006-Ohio-3561, ¶¶ 9, 16
- State v. Solomon, 59 Ohio St.3d 124, 126 (1991)
- Farkas v. Detar, 126 Ohio App.3d 795, 798-801 (9th Dist. 1998)
- State v. Jewett, 2013-Ohio-1246, ¶¶ 80-81 (Ohio Ct. App. 10th Dist.)
- State v. Jones, 9 Ohio St.3d 123, 124-125 (1984)
- In re C.S., 2010-Ohio-4463, ¶¶ 41-42 (Ohio Ct. App. 9th Dist.)
- In re Sherman, 2005-Ohio-5888, ¶ 19 (Ohio Ct. App. 3d Dist.)
- Caputo v. Silver Arrow Systems, 1997 WL 675433, at *2 (Ohio Ct. App. 8th Dist. Oct. 30, 1997)
- Turner v. Navistar International Transportation Corp., 1991 WL 26686, at *3 (Ohio Ct. App. 2d Dist. Feb. 25, 1991)
- Theis v. Lane, 2013-Ohio-729, ¶ 19 (Ohio Ct. App. 6th Dist.)
- Miller v. Bike Athletic Co., 80 Ohio St.3d 607, 611 (1998)

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