

SUPREME COURT OF SOUTH DAKOTA

St. John v. Peterson

St. John, 2015 S.D. 41 (S.D. 2015) · No. #27098 · Decided June 3, 2015

SUMMARY

The Supreme Court of South Dakota affirmed a judgment for Dr. Linda Peterson in a medical malpractice action involving the repair of a vesicovaginal fistula. The court held that evidence concerning Dr. Peterson's treatment of other patients and expert testimony regarding informed consent was properly excluded as irrelevant, unreliable, or outside the issues remaining for trial.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Wilbur, Justice; Gilbertson, Chief Justice; Zinter, Justice; Severson, Justice; Kern, Justice
JURISDICTION	South Dakota
DECIDED	June 3, 2015
DOCKET	#27098
DISPOSITION	affirmed
PROCEDURAL POSTURE	Third appeal in a medical-malpractice action after a jury verdict for Dr. Peterson. St. John appealed the judgment entered after the third trial, challenging exclusion of evidence concerning Dr. Peterson's treatment of other patients and exclusion of expert testimony concerning an alleged duty to inform St. John that fistula repair was not Dr. Peterson's specialty.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for clear abuse of discretion and will not be overturned absent prejudicial error. Expert-opinion admissibility is also reviewed under the trial court's broad discretion, including its gatekeeping responsibility to ensure relevance and reliability.
PRECEDENTIAL VALUE	published opinion
PARTIES	Lita St. John v. Linda Peterson, M.D.

TOPICS

relevance

expert testimony

medical malpractice

standard of review

appellate procedure

PRACTICE AREAS

medical malpractice

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by excluding evidence concerning Dr. Peterson's treatment of other patients with vesicovaginal fistulas.
2. Whether the circuit court abused its discretion by excluding Dr. Wharton's testimony that Dr. Peterson breached the standard of care by failing to inform St. John that repairing vesicovaginal fistulas was not her specialty.

HOLDINGS

1. The circuit court did not abuse its discretion in excluding evidence concerning Dr. Peterson's treatment of Crystal, Ruth, and Cheryl because the evidence did not make a consequential fact concerning Dr. Peterson's competence to repair St. John's fistula more or less probable.
2. The circuit court did not err in excluding Dr. Wharton's proposed testimony concerning Dr. Peterson's treatment of other patients because the testimony was neither relevant nor reliable.
3. The circuit court did not abuse its discretion in excluding Dr. Wharton's proposed testimony because it addressed informed consent rather than whether a reasonably careful and skillful physician would have referred St. John to a specialist.

KEY QUOTATIONS

“Rule 404(b) evidence offered to show a defendant’s propensity to commit the act is not relevant.” (¶ 15)

“When dealing with expert opinion, the court must fulfill a gatekeeping function, ensuring that the expert opinion meets the prerequisites of relevance and reliability before admission.” (¶ 19)

“The exclusion of this evidence did not amount to error, much less prejudicial error.” (¶ 25)

FACTUAL BACKGROUND

St. John claimed Dr. Peterson negligently failed to refer her to a physician specializing in repair of vesicovaginal fistulas. St. John sought to introduce evidence concerning Dr. Peterson's treatment of three former patients and expert testimony from Dr. Arnold Wharton about those patients and about informing St. John that fistula repair was not Dr. Peterson's specialty. The former patients' treatments involved different procedures or outcomes that did not establish Dr. Peterson's competence regarding St. John's repair, and Dr. Wharton's proposed testimony relied on materially incorrect assumptions about those treatments.

PROCEDURAL HISTORY

The first jury trial ended without a verdict. After a second trial resulted in a verdict for Dr. Peterson, the Supreme Court reversed and remanded because the circuit court had improperly applied the Rule 403 balancing test. On

remand, the circuit court reinstated the original judgment, and the Supreme Court again reversed, directing a retrial. Before and during the third trial, the circuit court excluded the challenged evidence and the jury again returned a verdict for Dr. Peterson. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- St. John v. Peterson, 2011 S.D. 58, 804 N.W.2d 71
- St. John v. Peterson, 2013 S.D. 67, 837 N.W.2d 394
- Mousseau v. Schwartz, 2008 S.D. 86, ¶ 10, 756 N.W.2d 345, 350
- Novak v. McEldowney, 2002 S.D. 162, ¶ 7, 655 N.W.2d 909, 912
- State v. Kvasnicka, 2013 S.D. 25, ¶ 56, 829 N.W.2d 123, 135
- State v. Vatne, 2003 S.D. 31, ¶ 10, 659 N.W.2d 380, 383
- Supreme Pork, Inc. v. Master Blaster, Inc., 2009 S.D. 20, ¶¶ 30, 43, 46, 764 N.W.2d 474, 484, 487-88
- State v. Wright, 1999 S.D. 50, ¶ 14, 593 N.W.2d 792, 798-99
- State v. Medicine Eagle, 2013 S.D. 60, ¶ 17, 835 N.W.2d 886, 893
- State v. Huber, 2010 S.D. 63, ¶ 59, 789 N.W.2d 283, 302
- Reinfeld v. Hutcheson, 2010 S.D. 42, ¶ 27, 783 N.W.2d 284, 292
- Garland v. Rossknecht, 2001 S.D. 42, ¶¶ 9-10, 624 N.W.2d 700, 702
- Rogen v. Monson, 2000 S.D. 51, ¶ 13, 609 N.W.2d 456, 459
- Cain v. Fortis Ins. Co., 2005 S.D. 39, ¶ 31, 694 N.W.2d 709, 716
- Ruschenberg v. Eliason, 2014 S.D. 42, ¶ 23, 850 N.W.2d 810, 817