SUPREME COURT OF SOUTH CAROLINA

Burgess v. Nationwide Mutual Insurance Company, 373 S.C. 37

644 S.E.2d 40 (2007) · No. No. 26304 · Decided April 9, 2007

SUMMARY

The Supreme Court of South Carolina considered whether an automobile insurance policy could limit the portability of underinsured motorist coverage when the insured was injured while operating a vehicle he owned but had not insured for UIM coverage. The court held that the policy limitation did not violate public policy or S.C. Code Ann. § 38-77-160 and reversed the Court of Appeals' decision requiring Nationwide to pay UIM benefits.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Pleicones; Chief Justice Toal; Justice Moore; Justice Waller; Justice Burnett
JURISDICTION	South Carolina
DECIDED	April 9, 2007
DOCKET	No. 26304
DISPOSITION	reversed
PROCEDURAL POSTURE	Nationwide petitioned for certiorari to review the South Carolina Court of Appeals' decision affirming a circuit court judgment requiring Nationwide to pay Burgess $15,000 in underinsured motorist benefits.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of South Carolina.
PARTIES	Nationwide Mutual Insurance Company v. Robert J. Burgess

TOPICS

uninsured motorist · insurance coverage · declaratory relief insurance · statutory interpretation · contract interpretation

PRACTICE AREAS

insurance law · motor vehicle insurance · declaratory judgment

QUESTIONS PRESENTED

1. Whether Nationwide's policy provision limiting the portability of basic underinsured motorist coverage when the insured is injured while operating an owned vehicle not insured under the Nationwide policy violates South Carolina Code section 38-77-160 or public policy.

HOLDINGS

1. Public policy is not offended by an automobile insurance policy provision limiting the portability of basic at-home underinsured motorist coverage when the insured has an owned vehicle involved in the accident but did not purchase underinsured motorist coverage for that vehicle.
2. Nationwide was not required to provide Burgess with the claimed $15,000 in underinsured motorist benefits under the policy provision at issue.

KEY QUOTATIONS

> *"We hold that public policy is not offended by an automobile insurance policy provision which limits the portability of basic "at-home" UIM coverage when the insured has a vehicle involved in the accident."* (42)

> *"In our view, however, this statutory language does provide support for Nationwide's contention that its policy provision does not violate public policy."* (41)

FACTUAL BACKGROUND

Burgess was injured while operating a motorcycle insured by Alpha Property and Casualty Insurance Company. His damages exceeded the at-fault driver's liability coverage, but Burgess had no underinsured motorist coverage on the motorcycle. He owned three other vehicles insured by Nationwide, each with $25,000 in underinsured motorist coverage, but Nationwide denied his claim under a policy provision limiting coverage when an owned but uninsured vehicle was involved in the accident.

PROCEDURAL HISTORY

Burgess brought a declaratory judgment action after Nationwide denied his underinsured motorist claim. The circuit court held that Nationwide had to pay $15,000 under one of its policies covering Burgess's other vehicles. The Court of Appeals affirmed, and the Supreme Court of South Carolina granted Nationwide's petition for a writ of certiorari and reversed.

DISPOSITION

reversed

CASES CITED

- Burgess v. Nationwide Mutual Insurance Co., 361 S.C. 196, 603 S.E.2d 861 (Ct. App. 2004)
- Hogan v. Home Insurance Co., 260 S.C. 157, 194 S.E.2d 890 (1973)
- State Farm Mutual Automobile Insurance Co. v. Calcutt, 340 S.C. 231, 530 S.E.2d 896 (Ct. App. 2000)
- Giles v. Whitaker, 297 S.C. 267, 376 S.E.2d 278 (1989)