

DISTRICT OF COLUMBIA COURT OF APPEALS

Lisa Packheiser v. George F. Miller

875 A.2d 645 (D.C. 2005) · No. No. 04-CV-67 · Decided June 2, 2005

SUMMARY

The District of Columbia Court of Appeals considered whether the trial court properly denied a plaintiff's motion to vacate dismissal of a medical-malpractice complaint for untimely or insufficient service of process. The court held that the trial court failed to exercise its discretion under Rule 41(b) because it did not consider the plaintiff's reasons for noncompliance, prejudice, or her efforts to follow procedural rules. The court vacated the order and remanded for an informed exercise of discretion.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Reid, Associate Judge; Schwelb, Associate Judge; Washington, Associate Judge
JURISDICTION	District of Columbia
DECIDED	June 2, 2005
DOCKET	No. 04-CV-67
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the denial of the plaintiff's motion under Superior Court Civil Rule 41(b) to vacate dismissal of a medical-malpractice complaint for failure to timely file proof of service.
STANDARD OF REVIEW	The decision whether to vacate a dismissal under Rule 41(b) is reviewed for abuse of discretion. The trial court must exercise that discretion with a proper appreciation of all relevant factors and the range of its discretionary authority.
PRECEDENTIAL VALUE	Published opinion of the District of Columbia Court of Appeals; precedential
PARTIES	Lisa Packheiser v. George F. Miller

TOPICS

- service of process
- motions to dismiss
- civil procedure
- appellate procedure
- standard of review

PRACTICE AREAS

civil procedure

appellate procedure

medical malpractice

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by denying Packheiser's Rule 41(b) motion to vacate the dismissal without considering the reasons for her failure to comply with Rule 4(m), the prejudice resulting from dismissal, and her efforts to comply with the civil-procedure rules.
2. Whether a Rule 41(b) motion to vacate is available after a complaint has been dismissed under Rule 4(m).

HOLDINGS

1. A Rule 4(m) dismissal does not make Rule 41(b) unavailable; Rule 41(b) provides a safe harbor under which the dismissal may be vacated when the plaintiff timely shows good cause why the case should not be dismissed.
2. The trial court must exercise informed discretion on a Rule 41(b) motion following a Rule 4(m) dismissal by considering the plaintiff's reasons for noncompliance, prejudice to the plaintiff and lack of prejudice to the defendant, and the plaintiff's efforts to comply with the civil-procedure rules generally.
3. Rule 4(m)'s dismissal requirement is mandatory when the plaintiff fails to timely file the required proof of service, but the trial court has broad power to extend the service period without limitation if an extension is timely requested.

KEY QUOTATIONS

"The decision whether to vacate a dismissal under Rule 41(b) is clearly a matter of trial court discretion." (648)

"The rule confers no discretion on the trial court in the event of noncompliance; rather, failure to timely file proof of service mandates dismissal." (649)

"Rule 4(m) must be read in conjunction with other relevant provisions, several of which provide a safe harbor from its otherwise strict dismissal requirement." (649)

"The failure of the trial court to make any express findings regarding the factual circumstances of Ms. Packheiser's motion leads us to conclude that the trial court either declined to exercise its discretionary power or failed to recognize the extent of its discretionary power." (650)

FACTUAL BACKGROUND

Lisa Packheiser filed a medical-malpractice complaint against her plastic surgeon, George F. Miller, arising from facial plastic surgery. She attempted service by certified mail and submitted postal tracking materials, but did not timely file the proof of service required by Superior Court Civil Rule 4(m). Although she ultimately obtained personal service after the extended deadline, the trial court dismissed the complaint and denied her Rule 41(b) motion to vacate without considering her diligence, the reasons for noncompliance, or prejudice to either party.

PROCEDURAL HISTORY

Packheiser filed a medical-malpractice complaint and made several unsuccessful attempts to serve Miller. The trial court initially extended the service period, but later granted Miller's renewed motion to quash service and dismiss the complaint after the extended deadline had passed. The trial court denied Packheiser's Rule 41(b) motion to vacate without explanation, and Packheiser appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must reconsider the Rule 41(b) motion through an informed exercise of discretion, considering the reasons for Packheiser's failure to comply with Rule 4(m), prejudice to Packheiser and lack of prejudice to Miller, and Packheiser's general efforts to comply with the civil-procedure rules, followed by further proceedings consistent with the opinion.

CASES CITED

- Wagshal v. Rigler, 711 A.2d 112, 114-15 (D.C. 1998)
- Cameron v. Washington Metro. Area Transit Auth., 649 A.2d 291, 293-94 (D.C. 1994)
- Smith v. Alder Branch Realty Ltd. P'ship, 684 A.2d 1284, 1289 (D.C. 1996)
- In re D.R.M., 570 A.2d 796, 803 (D.C. 1990)
- Johnson v. United States, 398 A.2d 354, 363-65, 367 (D.C. 1979)
- Berryman v. United States, 378 A.2d 1317, 1320 (D.C. 1977)
- Brown v. United States, 388 A.2d 451 (D.C. 1978)
- Bulin v. Stein, 668 A.2d 810, 815 (D.C. 1995)