

SUPREME COURT OF SOUTH DAKOTA

St. John v. Peterson

2013 S.D. 67 · No. 26456 · Decided September 4, 2013

SUMMARY

The South Dakota Supreme Court considered whether a circuit court could reconsider an evidentiary ruling on remand and reinstate a previously reversed judgment in a medical malpractice action. The majority held that the reversal and remand required a new trial and that the circuit court improperly reinstated the judgment based on reconsideration of a motion in limine outside the context of trial. Two justices dissented, concluding that the circuit court had properly applied the correct evidentiary standards on remand.

CASE DETAILS

|                       |                                                                                                                  |
|-----------------------|------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of South Dakota                                                                                    |
| WRITING FOR THE COURT | Severson; Gilbertson; Konenkamp; Wilbur; Zinter                                                                  |
| JURISDICTION          | South Dakota                                                                                                     |
| DECIDED               | September 4, 2013                                                                                                |
| DOCKET                | 26456                                                                                                            |
| DISPOSITION           | reversed_and_remanded                                                                                            |
| PROCEDURAL POSTURE    | Appeal from the circuit court's decision on remand to reinstate judgment for the defendant after prior reversal. |
| STANDARD OF REVIEW    | De novo review of whether the trial court conformed with the appellate mandate.                                  |
| PRECEDENTIAL VALUE    | Published                                                                                                        |
| PARTIES               | Lita St. John v. Linda Peterson, M.D.                                                                            |

TOPICS

- medical malpractice
- torts
- evidence
- relevance
- appellate procedure
- standard of review
- civil procedure
- preservation of error

PRACTICE AREAS

- Medical Malpractice
- Evidence
- Appellate Practice

## QUESTIONS PRESENTED

1. Whether the trial court erred by reconsidering its motion in limine ruling after remand and reinstating the judgment for the defendant rather than granting a new trial.
2. Whether the trial court abused its discretion in excluding St. John's proffered evidence of other patients.

## HOLDINGS

1. A trial court may not reinstate a judgment based on a reconsideration of a motion in limine because such rulings are preliminary and interlocutory, subject to change during trial; the proper course is a new trial.
2. A reversal and remand without other direction nullifies the judgment and leaves the case standing as if no judgment had been entered.

## KEY QUOTATIONS

*“The purpose of a motion in limine is to prevent prejudicial evidence, argument, or reference from reaching the ears of the jury. However, a trial court’s ruling on a motion in limine is preliminary and may change depending on what actually happens in trial.” (¶ 15)*

*“A complete reversal generally annuls the judgment below, and the case is put in the same posture in which it was before the judgment was entered.” (¶ 21)*

*“Thus, it was an error for the trial court in this case to reinstate a judgment based on reconsidering and ruling on a motion in limine outside of the context of a trial.” (¶ 19)*

## FACTUAL BACKGROUND

Plaintiff Lita St. John sued Dr. Linda Peterson for medical malpractice after developing a vesicovaginal fistula following a hysterectomy. Dr. Peterson attempted to repair the fistula using the Latzko procedure. St. John proffered evidence that Dr. Peterson had similar complications with three other patients (Cheryl, Crystal, and Ruth). The trial court excluded this evidence as irrelevant and unfairly prejudicial. After a jury verdict for Dr. Peterson, St. John appealed; the Supreme Court reversed and remanded for the trial court to apply the correct evidentiary standards. On remand, the trial court again excluded the evidence and reinstated the judgment.

## PROCEDURAL HISTORY

The case arose from a medical malpractice suit. After a jury verdict for the defendant, the plaintiff appealed. The Supreme Court reversed and remanded, holding that the trial court misapplied evidence rules. On remand, the defendant moved for reconsideration of evidentiary rulings; the trial court again excluded the proffered evidence and reinstated the judgment. The plaintiff appealed again.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Remand for a new trial.

#### CASES CITED

- St. John v. Peterson (St. John I), 2011 S.D. 58, 804 N.W.2d 71
- Weins v. Sporleder, 2000 S.D. 10, 605 N.W.2d 488
- Kjerstad v. Ravellette Publ'ns, Inc., 517 N.W.2d 419 (S.D. 1994)
- Lapasinskas v. Quick, 170 N.W.2d 318 (Mich. App. 1969)
- Kappenman v. Stroh, 2005 S.D. 96, 704 N.W.2d 36
- First Premier Bank v. Kolcraft Enters., Inc., 2004 S.D. 92, 686 N.W.2d 430
- In re Estate of Duebendorfer, 2006 S.D. 79, 721 N.W.2d 438
- Ohler v. United States, 529 U.S. 753 (2000)
- Luce v. United States, 469 U.S. 38 (1984)
- Gluscic v. Avera St. Luke's, 2002 S.D. 93, 649 N.W.2d 916
- Janssen v. Tusha, 67 S.D. 597, 297 N.W. 119 (1941)
- Wheeler v. John Deere Co., 935 F.2d 1090 (10th Cir. 1991)
- Butler v. Eaton, 141 U.S. 240 (1891)
- Arkadelphia Milling Co. v. St. Louis Sw. Ry. Co., 249 U.S. 134 (1919)
- Riha v. Int'l Tel. & Tel. Corp., 533 F.2d 1053 (8th Cir. 1976)
- Surgical Inst. of S.D., P.C. v. Sorrell, 2012 S.D. 48, 816 N.W.2d 133
- Janis v. Nash Finch Co., 2010 S.D. 27, 780 N.W.2d 497
- In re C.V., 1998 S.D. 47, 579 N.W.2d 17
- Horne v. Crozier, 1997 S.D. 65, 565 N.W.2d 50
- Pac. Gas & Elec. Co. v. United States, 668 F.3d 1346 (Fed. Cir. 2012)
- Bankers Trust Co. v. Bethlehem Steel Corp., 761 F.2d 943 (3d Cir. 1985)