

SUPREME COURT OF SOUTH CAROLINA

Tatum v. Medical University of South Carolina, 346 S.C. 194

552 S.E.2d 18 (2001) · No. No. 25345 · Decided August 20, 2001

SUMMARY

The Supreme Court of South Carolina reversed the Court of Appeals and held that an employee who sustains a compensable work-related injury may not maintain a tort action against a governmental employer-hospital for the alleged malpractice of a treating physician. The court concluded that the South Carolina Workers’ Compensation Act and Tort Claims Act together make workers’ compensation the exclusive remedy against the employer and rejected application of the dual persona doctrine to the Medical University of South Carolina. The court reinstated the trial court’s dismissal of the action under Rule 12(b)(6), SCRPC.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Burnett, Justice; Moore, Justice; Waller, Justice; Toal, Chief Justice; Pleicones, Justice
JURISDICTION	South Carolina
DECIDED	August 20, 2001
DOCKET	No. 25345
DISPOSITION	reversed
PROCEDURAL POSTURE	The Supreme Court of South Carolina granted a writ of certiorari to review the Court of Appeals' reversal of a Rule 12(b)(6) dismissal in a medical-malpractice and loss-of-consortium action arising from treatment of a work-related injury.
STANDARD OF REVIEW	Review of a Rule 12(b)(6) dismissal; dismissal is sustained when the facts alleged do not support relief under any theory of law.
PRECEDENTIAL VALUE	published
PARTIES	Medical University of South Carolina v. Jennifer M. Tatum, Billy Joe Scarbrough

TOPICS

- workers compensation
- medical malpractice
- statutory interpretation
- appellate procedure
- health law

PRACTICE AREAS

workers compensation

medical malpractice

health law

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether the South Carolina Tort Claims Act and Workers' Compensation Act permit a government employee with a compensable work-related injury to maintain a tort action against the governmental employer for the alleged negligence of an employer-employed treating physician.
2. Whether the dual persona doctrine permits MUSC to be sued in tort as a treating hospital notwithstanding the workers' compensation exclusivity provisions.

HOLDINGS

1. The Tort Claims Act and Workers' Compensation Act together bar a government employee from maintaining a tort action against the governmental employer for malpractice occurring in the treatment of a compensable work-related injury. The consequences of the malpractice are treated as part of the compensable work-related injury under the Workers' Compensation Act.
2. The dual persona doctrine does not permit Tatum to sue MUSC in tort. MUSC did not acquire a legally distinct persona separate from its identity as Tatum's employer merely by referring her to its medical provider or furnishing medical services.

KEY QUOTATIONS

“Unlike a treating physician, however, the employer is not a third party amenable to suit.” (202-203)

“MUSC is only one legal entity even though it may act in many different capacities, including those of employer and medical provider.” (206)

“Both Acts expressly prohibit a government employee who sustains a work-related injury from maintaining a tort action against her government employer.” (207)

FACTUAL BACKGROUND

Jennifer Tatum injured her back in the course of her employment with MUSC and received treatment through MUSC's employee health-care service. She was later treated by Dr. Sunil J. Patel, an MUSC-employed neurosurgeon, who performed three surgeries on her back. Tatum alleged that Patel's negligence caused permanent spinal-cord damage, and her husband asserted a loss-of-consortium claim.

PROCEDURAL HISTORY

Tatum suffered a back injury during her employment with MUSC and alleged that an MUSC-employed physician negligently aggravated the injury during treatment. The trial court held that workers' compensation was her exclusive remedy and dismissed the complaint under Rule 12(b)(6), SCRCP. The Court of Appeals reversed, applying the dual persona doctrine and permitting a tort action against MUSC in its capacity as a hospital provider. The Supreme Court reversed and reinstated the trial court's dismissal order.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The trial court's order granting MUSC's Rule 12(b)(6) motion to dismiss was reinstated.

CASES CITED

- Tatum v. Medical University of South Carolina, 335 S.C. 499, 517 S.E.2d 706 (Ct. App. 1999)
- Summers v. Harrison Constr., 298 S.C. 451, 381 S.E.2d 493 (Ct. App. 1989)
- Proveaux v. Medical University of South Carolina, 326 S.C. 28, 482 S.E.2d 774 (1997)
- Lester v. South Carolina Workers' Compensation Commission, 334 S.C. 557, 514 S.E.2d 751 (1999)
- Whitfield v. Daniel Constr. Co., 226 S.C. 37, 83 S.E.2d 460 (1954)
- Johnson v. Rental Uniform Service of Greenville, 316 S.C. 70, 447 S.E.2d 184 (1994)
- McAlister v. Methodist Hospital of Memphis, 550 S.W.2d 240 (Tenn. 1977)
- Nolan v. Daley, 222 S.C. 407, 73 S.E.2d 449 (1952)
- Neese v. Michelin Tire Corp., 324 S.C. 465, 478 S.E.2d 91 (Ct. App. 1996)
- Abbott v. The Limited, Inc., 338 S.C. 161, 526 S.E.2d 513 (2000)
- McEachern v. Black, 329 S.C. 642, 496 S.E.2d 659 (Ct. App. 1998)
- Hardee v. Bruce Johnson Trucking Co., 293 S.C. 349, 360 S.E.2d 522 (Ct. App. 1987)
- Balancio v. United States, 267 F.2d 135 (2d Cir. 1959)
- Thomeier v. Rhone-Poulenc, Inc., 928 F. Supp. 548 (W.D. Pa. 1996)
- Thomas v. Valmac Indus., 306 Ark. 228, 812 S.W.2d 673 (1991)
- Percy v. Falcon Fabricators, Inc., 584 So. 2d 17 (Fla. Dist. Ct. App. 1991)
- Robinson v. KFC Nat'l Mgmt. Co., 171 Ill. App. 3d 867, 121 Ill. Dec. 721, 525 N.E.2d 1028 (1988)
- Gurry v. Cumberland Farms, Inc., 406 Mass. 615, 550 N.E.2d 127 (1990)
- Kimzey v. Interpace Corp., Inc., 10 Kan. App. 2d 165, 694 P.2d 907 (1985)
- Schweiner v. Hartford Accident & Indemnity Co., 120 Wis. 2d 344, 354 N.W.2d 767 (Ct. App. 1984)
- Billy v. Consolidated Mach. Tool Corp., 51 N.Y.2d 152, 432 N.Y.S.2d 879, 412 N.E.2d 934 (1980)
- Evans v. Thompson, 124 Wash. 2d 435, 879 P.2d 938 (1994)
- Rauch v. Officine Curioni, S.P.A., 179 Wis. 2d 539, 508 N.W.2d 12 (Ct. App. 1993)
- LaBelle v. Crepeau, 593 A.2d 653 (Me. 1991)
- Doggett v. Patrick, 197 Ga. App. 420, 398 S.E.2d 770 (1990)
- Estate of Blakely v. Asbestos Corp., Ltd., 766 F. Supp. 721 (E.D. Ark. 1991)
- Durham v. Country Village Assocs., 1999 WL 169402 (Del. Super. 1999)
- Estate of Donley v. Pace Indus., 336 Ark. 101, 984 S.W.2d 421 (1999)
- Singhas v. New Mexico State Highway Department, 124 N.M. 42, 946 P.2d 645 (1997)

- Samson v. DiConzo, 669 A.2d 760 (Me. 1996)
- Li v. C.N. Brown Co., 645 A.2d 606 (Me. 1994)
- Quinn v. Di-Pietro, 642 A.2d 1335 (Me. 1994)
- Daniels v. Seattle Seahawks, 92 Wash. App. 576, 968 P.2d 883 (1998)
- Deller v. Naymick, 176 W. Va. 108, 342 S.E.2d 73 (1985)
- Franke v. Durkee, 141 Wis. 2d 172, 413 N.W.2d 667 (Ct. App. 1987)

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