

SUPREME COURT OF PENNSYLVANIA

Yoder v. McCarthy Construction, Inc.

No. 43 EAP 2024 (Pa. 2025) · No. 43 EAP 2024 · Decided October 23, 2025

SUMMARY

The Pennsylvania Supreme Court considers whether a general contractor qualifies as an injured subcontractor employee’s statutory employer under the Workers’ Compensation Act and is therefore immune from tort liability. The appeal challenges longstanding precedent concerning the effect of workers’ compensation benefit payments, waiver of the statutory-employer defense, and application of the five-part McDonald test. The underlying case involved Jason Yoder’s \$5 million negligence verdict against McCarthy Construction, Inc., which the Superior Court vacated and remanded for entry of judgment in McCarthy’s favor.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Brobson; Chief Justice Todd; Justice Donohue; Justice Dougherty; Justice Wecht; Justice Mundy; Justice McCaffery
JURISDICTION	Supreme Court of Pennsylvania
DECIDED	October 23, 2025
DOCKET	43 EAP 2024
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Jason Yoder appealed from a published Superior Court order that vacated a \$5 million negligence judgment entered in his favor and remanded for entry of judgment notwithstanding the verdict in favor of McCarthy Construction, Inc. The Pennsylvania Supreme Court reversed the Superior Court, vacated the trial court's post-trial orders, and remanded for the trial court to determine whether McCarthy qualified as Yoder's statutory employer under the Workers' Compensation Act.
STANDARD OF REVIEW	An appellate court reverses a ruling on JNOV only for an abuse of discretion or error of law. JNOV is proper when the movant is entitled to judgment as a matter of law or when the evidence permits no two reasonable minds to disagree about the outcome; doubts are resolved in favor of the verdict winner. The Supreme Court also reviewed

	whether the Superior Court exceeded its proper scope of review by considering evidence outside the trial record.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Jason Yoder v. McCarthy Construction, Inc., Castelli Mechanical Design and Catania Engineering Associates, Inc., Air Control Technology, Inc., RRR Contractors, Inc.

TOPICS

workers compensation construction law statutory interpretation appellate procedure standard of review

PRACTICE AREAS

workers compensation construction law torts appellate procedure statutory interpretation

QUESTIONS PRESENTED

1. Whether the Pennsylvania Supreme Court should overrule *Fonner v. Shandon, Inc.* and require a general contractor to have actually paid workers' compensation benefits before receiving statutory-employer immunity under Sections 203 and 302(b) of the Workers' Compensation Act.
2. Whether the Pennsylvania Supreme Court should overrule *LeFlar v. Gulf Creek Industrial Park #2* and hold that the statutory-employer defense is waivable when the general contractor did not pay workers' compensation benefits.
3. Whether the Superior Court improperly exceeded its scope of review by relying on the entire pretrial and post-trial record to determine disputed elements of McCarthy's statutory-employer status after the trial court had precluded McCarthy from presenting that defense at trial.
4. Whether the trial court must determine, before resolving the negligence claim, whether McCarthy satisfies the disputed first, second, and fourth elements of the McDonald statutory-employer test.

HOLDINGS

1. A general contractor that qualifies as a statutory employer under the Workers' Compensation Act remains entitled to immunity from common-law negligence liability even when the subcontractor that directly employed the injured worker carried workers' compensation insurance and paid the worker's benefits.
2. The statutory-employer defense is jurisdictional in nature and is not waived by failure to plead it timely; lack of subject-matter jurisdiction may be raised at any time, including sua sponte.
3. The Superior Court abused its discretion by exceeding its scope of review and scouring the entire pretrial and post-trial record to establish disputed elements of McCarthy's statutory-employer status after the trial court had precluded McCarthy from presenting that defense at trial.

KEY QUOTATIONS

“We, therefore, conclude that, because Yoder does not advance a special justification for us to overrule Fonner, we are constrained to adhere to the principles of stare decisis and, accordingly, reaffirm this Court’s decision in Fonner that a general contractor remains entitled to “historic immunity as a ‘statutory employer’ from suit for common law negligence . . . even though the subcontractor which directly employed the injured worker carried workers’ compensation insurance which paid benefits for the worker’s injuries.”” (20-21)

“Accordingly, we reaffirm our holdings in LeFlar that the Act “deprives the common pleas courts of jurisdiction of common law actions in tort for negligence against employers” and “[t]he lack of jurisdiction of the subject matter may be raised at any time and may be raised by the court sua sponte if necessary.”” (23-25)

“We, therefore, conclude that the Superior Court abused its discretion by exceeding its scope of review when it scoured the entire record for evidence to support its determinations with respect to the first, second, and fourth elements of the McDonald test.” (29-30)

FACTUAL BACKGROUND

McCarthy Construction contracted with the Borough of Norwood to remove and replace the roof and perform other work at the Norwood Public Library, and subcontracted the roofing work to RRR Contractors. Jason Yoder, an RRR employee, fell through an uncovered roof opening while working at the Library and sustained severe, permanent disabling injuries. A jury found McCarthy negligent and awarded Yoder \$5 million.

PROCEDURAL HISTORY

Yoder, an employee of subcontractor RRR Contractors, sued general contractor McCarthy Construction for negligence after suffering severe injuries in a fall through an uncovered roof opening. The trial court allowed the case to proceed to a jury, which returned a \$5 million verdict for Yoder, and entered judgment after denying McCarthy's JNOV motion. The Superior Court held that McCarthy was Yoder's statutory employer and immune from tort liability, and directed entry of JNOV. The Supreme Court rejected Yoder's requests to overrule Fonner and LeFlar but held that the Superior Court exceeded its scope of review by scouring the pretrial and post-trial record after the trial court had precluded McCarthy from presenting statutory-employer evidence at trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must reconsider the matter and determine whether McCarthy satisfies the disputed first, second, and fourth elements of the McDonald statutory-employer test. If necessary, the trial court must conduct an evidentiary hearing to develop the record. If McCarthy qualifies as Yoder's statutory employer, the trial court must grant McCarthy's JNOV motion; otherwise, it must deny JNOV and enter judgment in favor of Yoder.

CASES CITED

- McDonald v. Levinson Steel Co., 153 A. 424 (Pa. 1930)

- *Fonner v. Shandon, Inc.*, 724 A.2d 903 (Pa. 1999)
- *LeFlar v. Gulf Creek Industrial Park #2*, 515 A.2d 875 (Pa. 1986)
- *Universal Am-Can, Ltd. v. Workers' Comp. Appeal Bd. (Minteer)*, 762 A.2d 328 (Pa. 2000)
- *Trowbridge v. Scranton Artificial Limb Co.*, 747 A.2d 862 (Pa. 2000) (OAJC)
- *Associated Hospital Service of Philadelphia v. Pustilnik*, 439 A.2d 1149 (Pa. 1981)
- *Commonwealth v. Alexander*, 243 A.3d 177 (Pa. 2020)
- *Morrison Informatics, Inc. v. Members 1st Federal Credit Union*, 139 A.3d 1241 (Pa. 2016) (Wecht, J., concurring)
- *Ramos v. Louisiana*, 590 U.S. 83 (2020) (Kavanaugh, J., concurring in part)
- *Stilp v. Commonwealth*, 905 A.2d 918 (Pa. 2006)
- *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022)
- *Kimble v. Marvel Entertainment, LLC*, 576 U.S. 446 (2015)
- *Burke v. Pittsburgh Limestone Corp.*, 100 A.2d 595 (Pa. 1953)
- *Commonwealth v. Reid*, 235 A.3d 1124 (Pa. 2020)
- *Commonwealth v. Doughty*, 126 A.3d 951 (Pa. 2015)
- *In re Burt's Estate*, 44 A.2d 670 (Pa. 1945)
- *Travaglia v. C.H. Schwertner & Son, Inc.*, 570 A.2d 513 (Pa. Super. 1989)
- *Capazzoli v. Stone & Webster Engineering Corp.*, 42 A.2d 524 (Pa. 1945)
- *Peck v. Delaware County Board of Prison Inspectors*, 814 A.2d 185 (Pa. 2002)
- *Patton v. Worthington Associates, Inc.*, 89 A.3d 643 (Pa. 2014)
- *Commonwealth v. Hopkins*, 117 A.3d 247 (Pa. 2015)
- *Klar v. Dairy Farmers of America, Inc.*, 300 A.3d 361 (Pa. 2023)
- *Hunt v. Pennsylvania State Police*, 983 A.2d 627 (Pa. 2009)
- *Commonwealth v. Rosario*, 294 A.3d 338 (Pa. 2023)
- *Allegheny Reproductive Health Center v. Pennsylvania Department of Human Services*, 309 A.3d 808 (Pa. 2024)
- *Gerlach v. Moore*, 90 A. 399 (Pa. 1914)
- *Commonwealth v. Tilghman*, 673 A.2d 898 (Pa. 1996)
- *Banfield v. Cortes*, 110 A.3d 155 (Pa. 2015)
- *Wirth v. Commonwealth*, 95 A.3d 822 (Pa. 2014)
- *Bisher v. Lehigh Valley Health Network, Inc.*, 265 A.3d 383 (Pa. 2021)
- *Sun Ship Employees Association v. Industrial Union of Marine and Shipbuilding Workers of America, Local No. 2 C.I.O.*, 40 A.2d 413 (Pa. 1944)
- *Simmons v. Pacor, Inc.*, 674 A.2d 232 (Pa. 1996)
- *Wenrick v. Schloemann-Siemag Aktiengesellschaft*, 564 A.2d 1244 (Pa. 1989)
- *Exner v. Gangewere*, 152 A.2d 458 (Pa. 1959)
- *Birth Center v. St. Paul Companies, Inc.*, 787 A.2d 376 (Pa. 2001)

- In re Estate of duPont, 2 A.3d 516 (Pa. 2010)
- Sheard v. J.J. DeLuca Co., Inc., 92 A.3d 68 (Pa. Super. 2014)
- Yoder v. McCarthy Construction, Inc., 291 A.3d 1 (Pa. Super. 2023)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/supreme-court-of-pennsylvania-supreme-court-of-pennsylvania/2025/yoder-v-mccarthy-construction-inc-gcj489yk>