

SUPREME COURT OF OHIO

Estate of Johnson v. Randall Smith, Inc.

135 Ohio St. 3d 440, 2013-Ohio-1507 (2013) · No. 2012-0014 · Decided April 23, 2013

SUMMARY

The Supreme Court of Ohio held that Ohio Revised Code 2317.43, which excludes healthcare providers' statements of apology and sympathy in medical-malpractice actions, applies to civil actions filed after September 13, 2004. Because the Johnsons voluntarily dismissed their 2002 action and filed a new action in 2007, the statute applied and properly excluded Dr. Smith's statement. The court reversed the Eleventh District Court of Appeals and remanded for reinstatement of the jury verdict and trial court judgment.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Lanzinger, J.; O'Connor, C.J.; Kennedy, J.; French, J.; O'Neill, J.; Pfeifer, J.; O'Donnell, J.
JURISDICTION	Ohio
DECIDED	April 23, 2013
DOCKET	2012-0014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Discretionary appeal from the Eleventh District Court of Appeals, which reversed the trial court's judgment and ordered a new trial in a medical-malpractice action.
STANDARD OF REVIEW	Evidentiary rulings and decisions granting or denying a motion in limine are reviewed for abuse of discretion; an abuse of discretion requires unreasonable, arbitrary, or unconscionable action.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Ohio.
PARTIES	Randall Smith, Inc., et al. v. Estate of Johnson et al.

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether R.C. 2317.43 applies to a healthcare provider's statement of apology or sympathy made before the statute's effective date when the civil action was filed after that date.
2. Whether the trial court abused its discretion by excluding Dr. Smith's statement under R.C. 2317.43.

HOLDINGS

1. R.C. 2317.43 applies to any civil action filed after September 13, 2004, including an action involving a healthcare provider's statement made before that date.
2. The trial court properly excluded Dr. Smith's statement under R.C. 2317.43 and did not abuse its discretion.

KEY QUOTATIONS

"We now hold that R.C. 2317.43, which precludes the admission of statements of apology by a healthcare provider, applies to any cause of action filed after September 13, 2004." (§ 12)

"Dr. Smith's statement was properly excluded pursuant to R.C. 2317.43. We therefore reverse the judgment of the Eleventh District Court of Appeals and remand the case to the trial court to reinstate the jury's verdict and the trial court's judgment." (§ 24)

FACTUAL BACKGROUND

Dr. Randall Smith performed gallbladder-removal surgery on Jeanette Johnson in 2001, during which her common bile duct was injured and repaired. When complications required her transfer to another hospital, Smith attempted to console her and said, "I take full responsibility for this. Everything will be okay." The Johnsons initially filed a medical-malpractice action in 2002, voluntarily dismissed it in 2006, and filed the operative action on July 26, 2007.

PROCEDURAL HISTORY

The trial court excluded Dr. Randall Smith's statement under R.C. 2317.43 and entered judgment on a jury verdict for the defendants. The Eleventh District reversed, concluding that the statute did not apply to a statement made before its effective date and ordering a new trial. The Supreme Court of Ohio reversed the appellate judgment and remanded for reinstatement of the jury verdict and trial-court judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the trial court to reinstate the jury's verdict and the trial court's judgment in favor of the defendants.

CASES CITED

- Cover v. Hildebran, 103 Ohio App. 413, 415, 145 N.E.2d 850 (2d Dist.1957)
- Zumwalde v. Madeira & Indian Hill Joint Fire Dist., 128 Ohio St.3d 492, 2011-Ohio-1603, 946 N.E.2d 748, ¶¶ 23-24
- Sears v. Weimer, 143 Ohio St. 312, 55 N.E.2d 413, paragraph five of the syllabus
- Zimmie v. Zimmie, 11 Ohio St.3d 94, 95, 464 N.E.2d 142 (1984)
- Kiser v. Coleman, 28 Ohio St.3d 259, 262, 503 N.E.2d 753 (1986)
- Kilbreath v. Rudy, 16 Ohio St.2d 70, 242 N.E.2d 658 (1968)
- Denicola v. Providence Hosp., 57 Ohio St.2d 115, 117-118, 387 N.E.2d 231 (1979)
- State v. Hancock, 108 Ohio St.3d 57, 2006-Ohio-160, 840 N.E.2d 1032
- Illinois Controls, Inc. v. Langham, 70 Ohio St.3d 512, 526, 639 N.E.2d 771 (1994)
- State ex rel. Beacon Journal Publishing Co. v. Akron, 104 Ohio St.3d 399, 2004-Ohio-6557, 819 N.E.2d 1087, ¶ 59
- Johnson v. Randall Smith, Inc., 196 Ohio App.3d 722, 2011-Ohio-6000, 965 N.E.2d 344 (11th Dist.)