

MASSACHUSETTS SUPREME JUDICIAL COURT

Charron v. Amaral

451 Mass. 767 (2008) · Decided July 10, 2008

SUMMARY

The Massachusetts Supreme Judicial Court considered whether a same-sex spouse could recover for loss of consortium when the couple was not legally married when the injured spouse’s medical malpractice claim accrued, but married after *Goodridge v. Department of Public Health*. The court held that *Goodridge* operated prospectively and did not retroactively confer marital status or consortium rights for the period before the couple obtained a marriage license. The court answered the reported questions in the negative and affirmed summary judgment for the defendants.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Ireland, J.
JURISDICTION	Massachusetts
DECIDED	July 10, 2008
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Superior Court judge reported, pursuant to Mass. R. Civ. P. 64, the propriety of an interlocutory order granting the defendants' motion for partial summary judgment in a medical malpractice action.
STANDARD OF REVIEW	The court reviewed the propriety of an interlocutory order granting partial summary judgment and applied the governing legal rules to the agreed facts.
PRECEDENTIAL VALUE	Published opinion of the Massachusetts Supreme Judicial Court; precedential.

TOPICS

- medical malpractice
- personal injury
- summary judgment
- equal protection
- due process

PRACTICE AREAS

- medical malpractice
- torts
- civil procedure
- constitutional law
- family law

QUESTIONS PRESENTED

1. Whether a same-sex spouse may pursue a loss-of-consortium claim when the couple was not married when the injured spouse's personal-injury cause of action accrued but later married after Goodridge.
2. Whether Goodridge's recognition of same-sex marriage and related marital rights applies retroactively to permit a loss-of-consortium claim based on a relationship that predated the marriage.
3. Whether a committed same-sex couple that would have married but for the former legal prohibition may recover loss-of-consortium damages despite lacking a marriage at the time of injury.

HOLDINGS

1. An adult loss-of-consortium claim requires a legally recognized marital relationship, and the claimant must have been married to the injured person when the personal-injury cause of action accrued; cohabitation, commitment, and other indicia of a family relationship do not substitute for marriage.
2. Goodridge does not operate retroactively to treat a same-sex couple as married before the couple obtained a marriage license or to confer past marital benefits, including loss-of-consortium rights, for an injury occurring before marriage.
3. A claimant may not recover loss-of-consortium damages merely by proving that the couple would have married but for the former prohibition on same-sex marriage.

KEY QUOTATIONS

"A loss of consortium claim presupposes a legal right to consortium of the injured person." (at 771)

"Goodridge granted same-sex couples the right to choose to be married after a specific date; the court never stated that people in same-sex, committed relationships (including the Goodridge plaintiffs, who had applied for, and were denied, marriage licenses) would be considered married before they obtained a marriage license." (at 773)

"The benefits accessible only by marriage are enormous, touching nearly every aspect of life and death." (at 773)

FACTUAL BACKGROUND

Kalish and Charron began dating in 1990, lived together beginning in 1992, jointly purchased a home, jointly adopted a child, and executed reciprocal legal and financial documents. Charron developed breast cancer after seeking treatment in December 2002 and was diagnosed in July 2003; she and Kalish were not married when the personal-injury cause of action accrued. After Goodridge permitted same-sex marriage in Massachusetts, they obtained a marriage license and married on May 20, 2004.

PROCEDURAL HISTORY

Cynthia Kalish and Michelle Charron brought a medical malpractice action involving a claim by Kalish for loss of Charron's consortium. The Superior Court granted the defendants' motion for partial summary judgment, reasoning that Kalish could not establish the claim because she and Charron were not married when Charron's personal-injury cause of action accrued. The judge reported the propriety of that ruling to the Supreme Judicial

Court, which transferred the case from the Appeals Court, answered all reported questions in the negative, affirmed the summary judgment ruling, and remanded for further proceedings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion.

CASES CITED

- Olsen v. Bell Tel. Lab., Inc., 388 Mass. 171, 176 (1983)
- Diaz v. Eli Lilly & Co., 364 Mass. 153, 154-156, 165, 167-168 (1973)
- Ferriter v. Daniel O'Connell's Sons, 381 Mass. 507, 516 (1980)
- Angelini v. OMD Corp., 410 Mass. 653, 655-656, 661-662 (1991)
- Morgan v. Lalumiere, 22 Mass. App. Ct. 262, 270 (1986)
- Norman v. Massachusetts Bay Transp. Auth., 403 Mass. 303, 306 (1988)
- Feliciano v. Rosemar Silver Co., 401 Mass. 141, 141-143 (1987)
- Butcher v. Superior Court, 139 Cal. App. 3d 58, 70 (1983)
- Fitzsimmons v. Mini Coach of Boston, Inc., 440 Mass. 1028 (2003)
- Goodridge v. Department of Pub. Health, 440 Mass. 309, 312-313, 323-325, 334, 342-344 (2003)
- Opinions of the Justices, 440 Mass. 1201, 1204 (2004)
- Loving v. Virginia, 388 U.S. 1, 12 (1967)
- Michaud v. Sheriff of Essex County, 390 Mass. 523, 535-536 (1983)
- Connors v. Boston, 430 Mass. 31, 34 n.9 (1999)
- Colella v. Commonwealth, 417 Mass. 433, 434 (1994)
- Blixt v. Blixt, 437 Mass. 649, 654-655, 657-659 (2002), cert. denied, 537 U.S. 1189 (2003)
- Turner v. Lewis, 434 Mass. 331, 334-336 (2001)
- E.N.O. v. L.L.M., 429 Mass. 824, 829-831 (1999), cert. denied, 528 U.S. 1005 (1999)
- Adoption of Tammy, 416 Mass. 205, 206 (1993)

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