

SUPREME COURT OF OHIO

Ries v. Ohio State University Medical Center

Ries v. Ohio State Univ. Med. Ctr., 137 Ohio St. 3d 151, 2013-Ohio-4545 (2013) · No. 2012-0954 · Decided October 17, 2013

SUMMARY

The Supreme Court of Ohio held that a physician employed by a state university medical school acted within the scope of state employment when providing clinical care, even though no medical student or resident was present. Because the physician's clinical duties advanced the interests of the state, he was entitled to personal immunity under R.C. 9.86 absent conduct outside the scope of employment or malicious, bad-faith, wanton, or reckless conduct. The court affirmed the judgment of the Tenth District Court of Appeals.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Donnell, J.; O'Connor, C.J.; Kennedy, J.; Lanzinger, J.; Hendon, J.; Pfeifer, J.; O'Neill, J.; Sylvia Sieve Hendon, J., sitting for French, J.
JURISDICTION	Ohio
DECIDED	October 17, 2013
DOCKET	2012-0954
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of the Tenth District Court of Appeals affirming a Court of Claims determination that a state-university physician was immune from personal liability under Ohio's state-employee immunity statute.
STANDARD OF REVIEW	The opinion applies the statutory and fact-based inquiry into whether the physician was a state employee acting within the scope of employment; it does not expressly identify a separate standard of review.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; binding precedent in Ohio.
PARTIES	Matthew Ries, administrator of the estate of Michael McNew, Cyrelle McNew v. Ohio State University Medical Center

TOPICS

medical malpractice

health law

statutory interpretation

wrongful death

loss of consortium

PRACTICE AREAS

governmental immunity

medical malpractice

health law

personal injury

wrongful death

QUESTIONS PRESENTED

1. Whether a faculty physician at a state medical school acts within the scope of state employment, and is therefore personally immune under R.C. 9.86, when providing clinical care at a university medical center without a medical student or resident present.
2. Whether the physician's simultaneous affiliation with a nonprofit private medical-practice corporation defeats state-employee immunity.

HOLDINGS

1. A state-university faculty physician acts within the scope of state employment when providing clinical services to patients at the university medical center, even if no medical student or resident is present, when the physician's state-defined duties include clinical care and the conduct advances the state's interests.
2. A physician's simultaneous employment or affiliation with a private medical-practice entity does not defeat immunity under R.C. 9.86 if the physician was also acting within the scope of state employment when the injury occurred.

KEY QUOTATIONS

“For purposes of this statute, a state employee acts within the scope of employment if the employee’s actions advance the interests of the state as defined by the duties of the state employee.” (137 Ohio St. 3d at 151-152; ¶¶ 2-3)

“Rather, the scope of employment is a fact-based inquiry that turns on proof of the employee’s specific job description with the state and focuses on whether the employee’s conduct is related to and promotes the state’s interests.” (137 Ohio St. 3d at 157; ¶ 23)

“Pursuant to R.C. 9.86, a state employee is immune from personal liability unless the employee’s actions were manifestly outside the scope of his employment or unless the employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.” (137 Ohio St. 3d at 158; ¶ 30)

FACTUAL BACKGROUND

Dr. Syed G. Husain was a clinical-track faculty member of the Ohio State University College of Medicine whose duties included providing clinical care and teaching medical students and residents. He was also affiliated with Ohio State University Physicians, Inc., a university-authorized nonprofit medical-practice corporation that billed and collected professional fees. Husain treated Michael McNew at a university colorectal-surgery clinic without proof that a student or resident observed the treatment, and McNew later died from an undiagnosed cerebral hemorrhage caused by thrombocytopenia.

PROCEDURAL HISTORY

The plaintiffs sued the Ohio State University Medical Center in the Court of Claims and separately sued Dr. Syed G. Husain and OSUP in the Franklin County Court of Common Pleas. The common-pleas action was stayed pending the Court of Claims' immunity determination. After an evidentiary hearing, the Court of Claims held that Husain was acting within the scope of state employment and was immune; the Tenth District affirmed, and the Supreme Court of Ohio affirmed the appellate judgment.

DISPOSITION

affirmed

CASES CITED

- Theobald v. Univ. of Cincinnati, 111 Ohio St. 3d 541, 2006-Ohio-6208, 857 N.E.2d 573
- Conley v. Shearer, 64 Ohio St. 3d 284, 287, 595 N.E.2d 862 (1992)
- State ex rel. Sawicki v. Lucas Cty. Court of Common Pleas, 126 Ohio St. 3d 198, 2010-Ohio-3299, 931 N.E.2d 1082
- Hopper v. Univ. of Cincinnati, 10th Dist. Franklin No. 99AP-787, 2000 WL 1059672
- Balson v. Ohio State Univ., 112 Ohio App. 3d 33, 677 N.E.2d 1216 (10th Dist. 1996)
- Katko v. Balcerzak, 41 Ohio App. 3d 375, 536 N.E.2d 10 (10th Dist. 1987)
- Johnson v. Univ. of Cincinnati, 10th Dist. Franklin No. 04AP-926, 2005-Ohio-2203
- Harrison v. Univ. of Cincinnati Hosp., 10th Dist. Franklin No. 96API01-81, 1996 WL 362055
- Hans v. Ohio State Univ. Med. Ctr., Ct. of Cl. No. 2001-10140, 2005-Ohio-4457
- Kaiser v. Ohio State Univ., 10th Dist. Franklin No. 02AP-316, 2002-Ohio-6030