SUPREME COURT OF FLORIDA

Alterra Healthcare Corporation v. Estate of Shelley

827 So. 2d 936 (Fla. 2002) · No. SC01-709 · Decided September 12, 2002

SUMMARY

The Supreme Court of Florida held that a private employer lacks third-party standing to assert its employees' constitutional privacy rights in nonpublic personnel records sought through discovery. The court explained that trial courts must nevertheless assess the relevance of requested records, weigh competing discovery and privacy interests, and use measures such as in-camera review, redaction, or protective orders when appropriate. The court approved the decision below in part and disapproved conflicting reasoning from the Fifth District Court of Appeal.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Lewis, J.; Anstead, C.J.; Shaw, J.; Wells, J.; Quince, J.; Harding, Senior Justice
JURISDICTION	Florida
DECIDED	September 12, 2002
DOCKET	SC01-709
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court of Florida reviewed a First District Court of Appeal decision denying an employer's petition for writ of certiorari challenging an order compelling production of employee personnel records. The First District certified conflict with a Fifth District decision concerning an employer's standing to assert employees' constitutional privacy rights in discovery.
STANDARD OF REVIEW	Certiorari review of a nonfinal discovery order is appropriate when the order causes irreparable harm that cannot be remedied on plenary appeal, including disclosure of material that could be used to injure another person. Discovery and privacy objections require consideration of relevance and, where appropriate, balancing of competing interests.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Florida; binding on Florida courts regarding employer standing and privacy

	protections in discovery.
PARTIES	Alterra Healthcare Corporation, Sterling House Corporation v. Estate of Frances Shelley

TOPICS

discovery dispute · standing · civil procedure · constitutional law · appellate procedure

PRACTICE AREAS

civil procedure · constitutional law · appellate procedure · health law

QUESTIONS PRESENTED

1. Whether a private employer has standing to assert the constitutional privacy rights of its employees in nonpublic personnel records sought through court-ordered discovery.
2. Whether an employer may oppose production of employee personnel records on the ground that the requested information is irrelevant to the litigation, even when the employer lacks standing to assert the employees' privacy rights.
3. Whether the trial court must consider and balance affected employees' privacy interests when determining the relevance and appropriate scope of discovery.

HOLDINGS

1. A nonpublic employer generally lacks third-party, or jus tertii, standing to assert the constitutional privacy rights of its employees in personnel records sought through discovery.
2. Although a private employer lacks standing to assert its employees' privacy rights as such, it has standing to oppose production of employee-file information on the independent ground that the information is irrelevant to the pending litigation.
3. Trial courts must consider affected employees' privacy interests when evaluating the relevance and scope of discovery, and may balance privacy and disclosure interests, conduct an in-camera inspection, redact or withhold irrelevant private information, and require a description of withheld material.

KEY QUOTATIONS

> *"The central concern is the inviolability of one's own thought, person, and personal action."* (at 941)

> *"On balance, we conclude that application of the three-part jus tertii analysis militates against recognizing third-party standing for nonpublic employers involved in requests for production of personnel records to assert their employees' privacy rights in those records."* (at 944)

> *"Discovery in civil cases must be relevant to the subject matter of the case, and must be admissible or reasonably calculated to lead to admissible evidence."* (at 945)

> *"In that context, the trial court may balance (on an ad hoc basis) "the right to privacy and the right to know.""* (at 946)

FACTUAL BACKGROUND

Frances Shelley, an elderly legally blind assisted-living resident with an unsteady gait and other infirmities, became trapped in the footboard of her bed and was not discovered for six to eight hours. Her injuries ultimately required amputation of her leg. Her estate alleged that the facility failed to provide adequate staffing, training, supervision, and protection from foreseeable harm. The estate sought personnel records for employees who cared for Shelley, while agreeing that purely private information such as home telephone numbers and Social Security numbers could be redacted.

PROCEDURAL HISTORY

The estate sued Alterra and Sterling House for negligence, statutory violations, and wrongful death. During discovery, the trial court granted the estate's motion to compel production of records concerning employees who cared for the decedent. The First District denied certiorari because it was bound by North Florida Regional Hospital, Inc. v. Douglas, but certified conflict with Beverly Enterprises-Florida, Inc. v. Deutsch. While the discretionary review proceeding was pending, the underlying action settled; the Supreme Court nevertheless addressed the general privacy and discovery issues.

DISPOSITION

approved

CASES CITED

- Alterra Health Care Corp. v. Estate of Shelley, 779 So. 2d 635 (Fla. 1st DCA 2001)
- Beverly Enterprises-Florida, Inc. v. Deutsch, 765 So. 2d 778 (Fla. 5th DCA 2000)
- North Florida Regional Hospital, Inc. v. Douglas, 454 So. 2d 759 (Fla. 1st DCA 1984)
- Shaktman v. State, 553 So. 2d 148 (Fla. 1989)
- Powers v. Ohio, 499 U.S. 400 (1991)
- Singleton v. Wulff, 428 U.S. 106 (1976)
- Craig v. Boren, 429 U.S. 190 (1976)
- Allstate Insurance Co. v. Langston, 655 So. 2d 91 (Fla. 1995)
- Martin-Johnson, Inc. v. Savage, 509 So. 2d 1097 (Fla. 1987)
- Rasmussen v. South Florida Blood Service, Inc., 500 So. 2d 533 (Fla. 1987)
- Amente v. Newman, 653 So. 2d 1030 (Fla. 1995)
- Brooks v. Owens, 97 So. 2d 693 (Fla. 1957)
- Krypton Broadcasting of Jacksonville, Inc. v. MGM-Pathe Communications Co., 629 So. 2d 852 (Fla. 1st DCA 1993)
- Berkeley v. Eisen, 699 So. 2d 789 (Fla. 4th DCA 1997)
- First Healthcare Corp. v. Hamilton, 740 So. 2d 1189 (Fla. 4th DCA 1999)
- Seattle Times Co. v. Rhinehart, 467 U.S. 20 (1984)
- Michel v. Douglas, 464 So. 2d 545 (Fla. 1985)

- Tribune Co. v. Cannella, 458 So. 2d 1075 (Fla. 1984)

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