

SUPREME COURT OF TEXAS

Psychiatric Solutions, Inc. and Mission Vista Behavioral Health Services, Inc. D/B/A Mission Vista Behavioral Health Center v. Kenneth Palit

Psychiatric Solutions · No. 12-0388 · Decided August 23, 2013

SUMMARY

The Supreme Court of Texas held that a psychiatric nurse’s negligence claim against his mental-health-care-provider employer was a health care liability claim under the Texas Medical Liability Act. Because the employee failed to serve an expert report within the statutory 120-day deadline, the Court reversed the court of appeals and remanded for dismissal and consideration of attorney’s fees and costs.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Eva M. Guzman; Chief Justice Jefferson; Justice Hecht; Justice Green; Justice Johnson; Justice Willett; Justice Devine; Justice Guzman
JURISDICTION	Texas
DECIDED	August 23, 2013
DOCKET	12-0388
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petition for review of a court of appeals judgment affirming the trial court's denial of defendants' motion to dismiss an alleged health care liability claim for failure to serve an expert report.
STANDARD OF REVIEW	The court reviewed de novo whether Palit's negligence claim was a health care liability claim subject to the Texas Medical Liability Act's expert-report requirement.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Texas; binding precedent in Texas.
PARTIES	Psychiatric Solutions, Inc., Mission Vista Behavioral Health Services, Inc. d/b/a Mission Vista Behavioral Health Center v. Kenneth Palit

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether a psychiatric nurse's negligence claim against his health care provider employer, alleging improper security of a psychiatric patient and inadequate workplace safety, is a health care liability claim under the Texas Medical Liability Act.
2. Whether Palit's failure to serve an expert report within 120 days required dismissal under Texas Civil Practice and Remedies Code section 74.351.

HOLDINGS

1. Palit's claim that Mission Vista departed from accepted standards of safety and health care by providing improper security for a psychiatric patient and inadequate safety for Palit was a health care liability claim.
2. Because Palit asserted a health care liability claim and failed to serve an expert report within 120 days after filing suit, Mission Vista was entitled to dismissal of the claim and reasonable attorney's fees and costs.

KEY QUOTATIONS

"We explained in West Oaks that an HCLC has three basic elements: (1) a physician or health care provider must be a defendant; (2) the claim or claims at issue must concern treatment, lack of treatment, or a departure from accepted standards of medical care, or health care, or safety or professional or administrative services directly related to health care; and (3) the defendant's act or omission complained of must proximately cause the injury to the claimant." (at 2)

"Thus, because Palit's allegations implicate a standard of care that requires expert testimony to prove or refute it, his claim is an HCLC." (at 4)

FACTUAL BACKGROUND

Kenneth Palit worked as a psychiatric nurse at Mission Vista Behavioral Health Center. On April 2, 2008, he was injured while physically restraining a psychiatric patient during a behavioral emergency. Palit alleged that Mission Vista provided improper security for a dangerous psychiatric patient and failed to provide a safe working environment and adequate safety precautions.

PROCEDURAL HISTORY

Palit sued Mission Vista for negligence after he was injured while restraining a psychiatric patient. Mission Vista moved to dismiss under Texas Civil Practice and Remedies Code section 74.351 because Palit had not served an

expert report within 120 days of filing suit. The trial court denied the motion, and the court of appeals affirmed. The Supreme Court of Texas granted review, reversed the court of appeals, and remanded with instructions to dismiss the claim and consider attorney's fees and costs.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the trial court to dismiss Palit's claim against Mission Vista and consider Mission Vista's request for attorney's fees and costs.

CASES CITED

- Texas West Oaks Hospital, LP v. Williams, 371 S.W.3d 171 (Tex. 2012)
- Diversicare General Partner, Inc. v. Rubio, 185 S.W.3d 942 (Tex. 2005)
- Heckman v. Williamson County, 369 S.W.3d 137 (Tex. 2012)