

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Kessel v. Monongalia County General Hospital Co., 215 W. Va. 609

600 S.E.2d 321 (2004) · No. Nos. 31547, 31548 · Decided May 19, 2004

SUMMARY

The Supreme Court of Appeals of West Virginia answered a certified question concerning whether a public or quasi-public hospital may enter into an exclusive medical-services contract that completely excludes physicians with staff privileges from using the hospital's facilities. The court held that medical staff bylaws generally do not constitute a contract, and that quasi-public hospitals have the same duty as public hospitals to admit qualified physicians and avoid unreasonable, arbitrary, capricious, or discriminatory exclusions. It further held that such hospitals may not use exclusive contracts to completely exclude staff physicians from practicing in the hospital.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Maynard, Chief Justice
JURISDICTION	West Virginia
DECIDED	May 19, 2004
DOCKET	Nos. 31547, 31548
DISPOSITION	other
PROCEDURAL POSTURE	Certified question from the Circuit Court of Monongalia County concerning whether a public or quasi-public hospital may enter an exclusive medical-services contract that completely excludes staff physicians from using hospital facilities.
STANDARD OF REVIEW	De novo review of questions of law answered and certified by a circuit court.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Appeals of West Virginia.
PARTIES	James W. Kessel, M.D., Richard M. Vaglienti, M.D., Stanford J. Huber, M.D. v. Monongalia County General Hospital Company, dba Monongalia General Hospital, Mark Bennett, M.D., individually, Bennett Anesthesia Consultants, PLLC, Professional Anesthesia Services, Inc.

TOPICS

health law

contracts

procedural due process

constitutional law

PRACTICE AREAS

health law

constitutional law

hospital staff privileges

medical staff bylaws

contracts

QUESTIONS PRESENTED

1. Whether a public or quasi-public hospital may enter an exclusive medical-services contract that completely excludes physicians with staff privileges from using the hospital's facilities.
2. Whether the hospital's medical staff bylaws constituted an enforceable contract between the hospital and its staff physicians.
3. Whether the hospital's medical staff bylaws governed the relationship and required fair-hearing procedures for a non-disciplinary management decision.
4. Whether the plaintiffs had a constitutionally protected property interest in their hospital staff privileges.
5. Whether Monongalia General Hospital was public or quasi-public for purposes of the physicians' right to practice and the scope of judicial review.

HOLDINGS

1. Absent consideration beyond the parties' preexisting statutory duties, a hospital's medical staff bylaws do not constitute a contract between the hospital and its staff physicians.
2. Absent express language to the contrary, medical staff bylaws do not apply to hospital management decisions that affect physicians for business or administrative reasons rather than allegations of professional incompetence or misconduct; when incompetence or misconduct is alleged, the hospital is bound by the bylaws' fair-hearing provisions.
3. The plaintiffs did not establish a constitutionally protected property interest in continued staff privileges at the hospital.
4. A quasi-public hospital has the same duty as a public hospital to admit regularly licensed physicians to its medical staff and is subject to the same judicial review of rules, regulations, or acts that deprive staff physicians of the ability to practice in its facilities.
5. A public or quasi-public hospital may not enter into an exclusive contract with a medical service provider that completely excludes other physicians who hold staff privileges from using the hospital's medical facilities.

KEY QUOTATIONS

"A physician ... is entitled to practice in the public hospitals of [the] state so long as he or she stays within the law and conforms to all the reasonable rules and regulations of the hospitals." (215 W. Va. 619, 600 S.E.2d 331)

“Accordingly, we hold that a public or quasi-public hospital may not enter into exclusive contracts with medical service providers that have the effect of completely excluding other physicians who have staff privileges at the hospital from the use of the hospital's medical facilities.” (215 W. Va. 622, 600 S.E.2d 334)

“Answer: No. Certified Question Answered.” (215 W. Va. 622, 600 S.E.2d 334)

FACTUAL BACKGROUND

The plaintiffs were anesthesiologists with staff privileges at Monongalia General Hospital and had historically provided anesthesia services there through Monongalia Anesthesia Associates. The hospital later entered exclusive contracts with other providers for orthopedic and then other general anesthesia services, resulting in the plaintiffs' complete exclusion from the hospital's surgical facilities despite their continuing staff privileges. The hospital treated the change as a management decision rather than a disciplinary or competency-based action, and its governing bodies approved the arrangements after a hearing under the medical staff bylaws.

PROCEDURAL HISTORY

The physicians sued the hospital and related defendants alleging tortious interference, due process violations, restraint of trade, breach of contract, and breach of the covenants of good faith and fair dealing. The hospital moved for summary judgment on all claims except the alleged antitrust violation. The circuit court certified a dispositive legal question to the Supreme Court of Appeals of West Virginia, which exercised its discretion to reformulate and answer the question.

DISPOSITION

other

CASES CITED

- Gallupo v. Wal-Mart Stores, Inc., 197 W. Va. 172, 475 S.E.2d 172 (1996)
- Virginian Export Coal Co. v. Rowland Land Co., 100 W. Va. 559, 131 S.E. 253 (1926)
- Thomas v. Mott, 74 W. Va. 493, 82 S.E. 325 (1914)
- Gianetti v. Norwalk Hospital, 211 Conn. 51, 557 A.2d 1249 (1989)
- Virmani v. Presbyterian Health Services, 127 N.C. App. 71, 488 S.E.2d 284 (1997)
- O'Byrne v. Santa Monica-UCLA Medical Center, 94 Cal. App. 4th 797, 114 Cal. Rptr. 2d 575 (2001)
- Van Valkenburg v. Paracelsus Healthcare, 606 N.W.2d 908 (N.D. 2000)
- Engelstad v. Virginia Municipal Hospital, 718 F.2d 262 (8th Cir. 1983)
- Dutta v. St. Francis Regional Medical Center, 254 Kan. 690, 867 P.2d 1057 (1994)
- Gonzalez v. San Jacinto Methodist Hospital, 880 S.W.2d 436 (Tex. Ct. App. 1994)
- Orteza v. Monongalia County General Hospital, 173 W. Va. 461, 318 S.E.2d 40 (1984)
- Waite v. Civil Service Commission, 161 W. Va. 154, 241 S.E.2d 164 (1977)
- State ex rel. Anstey v. Davis, 203 W. Va. 538, 509 S.E.2d 579 (1998)
- Major v. DeFrench, 169 W. Va. 241, 286 S.E.2d 688 (1982)

- State ex rel. Sams v. Ohio Valley General Hospital Association, 149 W. Va. 229, 140 S.E.2d 457 (1965)
- Capili v. Shott, 487 F. Supp. 710 (S.D. W. Va. 1980), aff'd, 620 F.2d 438 (4th Cir. 1980)
- State ex rel. Bronaugh v. City of Parkersburg, 148 W. Va. 568, 136 S.E.2d 783 (1964)
- Mahmoodian v. United Hospital Center, Inc., 185 W. Va. 59, 404 S.E.2d 750 (1991)
- Rao v. Auburn General Hospital, 10 Wash. App. 361, 517 P.2d 240 (1973)
- Storrs v. Lutheran Hospitals, 609 P.2d 24 (Alaska 1980)
- Brandt v. St. Vincent Infirmary, 287 Ark. 431, 701 S.W.2d 103 (1985)
- Silver v. Castle Memorial Hospital, 53 Haw. 475, 497 P.2d 564 (1972)
- Wallington v. Zinn, 146 W. Va. 147, 118 S.E.2d 526 (1961)
- Thomas v. Raleigh General Hospital, 178 W. Va. 138, 358 S.E.2d 222 (1987)
- Janda v. Madera Community Hospital, 16 F. Supp. 2d 1181 (E.D. Cal. 1998)
- Garrison v. Herbert J. Thomas Memorial Hospital, 190 W. Va. 214, 438 S.E.2d 6 (1993)
- Shaffer v. Monongalia General Hospital, 135 W. Va. 163, 62 S.E.2d 795 (1950)
- Peterson v. Tucson General Hospital, Inc., 114 Ariz. 66, 559 P.2d 186 (Ariz. Ct. App. 1976)
- Kincaid v. Mangum, 189 W. Va. 404, 432 S.E.2d 74 (1993)

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