

SUPREME COURT OF TEXAS

Diversicare General Partner, Inc. v. Rubio

185 S.W.3d 842 (Tex. 2005) · No. No. 02-0849 · Decided October 14, 2005

SUMMARY

The Supreme Court of Texas held that claims by a nursing-home resident alleging inadequate supervision and nursing services that allowed a sexual assault by another resident were health care liability claims under the Medical Liability Insurance Improvement Act. Because the Act's two-year limitations period applied and was not tolled by the resident's mental incapacity, the claims were time-barred. The court reversed the court of appeals and upheld summary judgment for the nursing-home defendants.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Wainwright; Chief Justice Jefferson; Justice Hecht; Justice Medina; Justice Johnson; Justice O'Neill; Justice Brister; Justice Green; Justice Willett
JURISDICTION	Texas
DECIDED	October 14, 2005
DOCKET	No. 02-0849
DISPOSITION	reversed
PROCEDURAL POSTURE	Petition for review of a court of appeals decision reversing summary judgment for nursing-home defendants on limitations grounds.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The movant asserting limitations must conclusively establish the affirmative defense, including accrual; the court takes as true competent evidence favorable to the nonmovant, indulges reasonable inferences in the nonmovant's favor, and resolves doubts in that party's favor.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Texas
PARTIES	Diversicare General Partner, Inc., Diversicare Leasing Corporation, Advocat, Inc., Texas Diversicare Limited Partnership d/b/a Goliad Manor v. Maria G. Rubio, Mary Holcomb as Next Friend of Maria G. Rubio

TOPICS

nursing home liability

medical malpractice

statute of limitations

summary judgment

statutory interpretation

PRACTICE AREAS

health law

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QUESTIONS PRESENTED

1. Whether Rubio's claims that a nursing home failed to supervise, monitor, staff, and protect her from sexual assault by another resident were health care liability claims under the MLIIA.
2. Whether the MLIIA's two-year statute of limitations applied to those claims and was unaffected by Rubio's mental incapacity.
3. Whether summary judgment for Diversicare was proper because the assault-related claims were filed outside the MLIIA limitations period.

HOLDINGS

1. Claims against a nursing home alleging inadequate supervision, monitoring, staffing, nursing services, training, and protection of a resident from assault by another resident constitute health care liability claims when the alleged conduct is inseparable from the provision of professional health care and safety services.
2. The MLIIA's two-year statute of limitations applies to the assault-related claims and is not tolled by Rubio's mental incapacity because the statute applies to all persons regardless of legal disability, subject only to specified statutory exceptions.
3. Because the assault-related claims were barred by the MLIIA's two-year limitations period, summary judgment for Diversicare was proper.

KEY QUOTATIONS

"We conclude that the nursing home resident's claims in this case are causes of action for departures from accepted standards of professional health care and safety. Therefore, the causes of action constitute health care liability claims under the MLIIA and are governed by the two-year statute of limitations prescribed by the statute." (845)

"The supervision and monitoring of Rubio and other nursing home residents and nursing services provided to Rubio by Diversicare's staff were part of her health care." (850)

"We do not declare that health care providers have no duty to prevent assaults between inpatients." (853)

"The Legislature broadly defined health care liability claim in the MLIIA, and the definition includes her claims." (854)

FACTUAL BACKGROUND

Maria Rubio, who suffered from Alzheimer's-related dementia and was mentally incapacitated, resided at Goliad Manor nursing home from 1994 through 1999. She alleged that Diversicare failed to provide adequate supervision, nursing services, staffing, training, and safety policies, allowing another resident to sexually assault her on multiple occasions in 1994 and 1995. Rubio amended her petition in September 2000 to add the assault-related claims, while the parties agreed that the assaults occurred no later than 1995.

PROCEDURAL HISTORY

Rubio sued Diversicare for injuries allegedly resulting from sexual assaults by another nursing-home resident, asserting negligence, contract, statutory, fraudulent-inducement, and premises-safety theories. The district court severed the assault-related claims and granted Diversicare summary judgment based on the Medical Liability Insurance Improvement Act's two-year statute of limitations. The court of appeals reversed, holding that the claims were ordinary negligence claims and that Rubio's mental incapacity tolled the limitations period. The Supreme Court of Texas reversed the court of appeals and rendered judgment for Diversicare.

DISPOSITION

reversed

REMAND INSTRUCTIONS

None. The court reversed the court of appeals and rendered judgment for Diversicare.

CASES CITED

- KPMG Peat Marwick v. Harrison County Housing Finance Corp., 988 S.W.2d 746 (Tex. 1999)
- Provident Life & Accident Insurance Co. v. Knott, 128 S.W.3d 211 (Tex. 2003)
- Southwestern Electric Power Co. v. Grant, 73 S.W.3d 211 (Tex. 2002)
- Science Spectrum, Inc. v. Martinez, 941 S.W.2d 910 (Tex. 1997)
- Cincinnati Life Insurance Co. v. Cates, 927 S.W.2d 623 (Tex. 1996)
- Sorokolit v. Rhodes, 889 S.W.2d 239 (Tex. 1994)
- MacGregor Medical Association v. Campbell, 985 S.W.2d 38 (Tex. 1998)
- Gormley v. Stover, 907 S.W.2d 448 (Tex. 1995)
- Walden v. Jeffery, 907 S.W.2d 446 (Tex. 1995)
- Garland Community Hospital v. Rose, 156 S.W.3d 541 (Tex. 2004)
- Haddock v. Arnspiger, 793 S.W.2d 948 (Tex. 1990)
- Shaw v. BMW Healthcare, Inc., 100 S.W.3d 8 (Tex. App.—Tyler 2002, pet. denied)
- Waters ex rel. Walton v. Del-Ky, Inc., 844 S.W.2d 250 (Tex. App.—Dallas 1992, no writ)
- Baptist Memorial Hospital System v. Sampson, 969 S.W.2d 945 (Tex. 1998)
- Meeks v. Rosa, 988 S.W.2d 216 (Tex. 1999)
- Healthcare Centers of Texas, Inc. v. Rigby, 97 S.W.3d 610 (Tex. App.—Houston [14th Dist.] 2002, pet. denied)

- *Zuniga v. Healthcare San Antonio, Inc.*, 94 S.W.3d 778 (Tex. App.—San Antonio 2002, no pet.)
- *Bush v. Green Oaks Operator, Inc.*, 39 S.W.3d 669 (Tex. App.—Dallas 2001, no pet.)
- *Sisters of Charity of the Incarnate Word v. Gobert*, 992 S.W.2d 25 (Tex. App.—Houston [1st Dist.] 1997, no pet.)
- *Dorris v. Detroit Osteopathic Hospital Corp.*, 460 Mich. 26, 594 N.W.2d 455 (1999)
- *Smith v. Four Corners Mental Health Center, Inc.*, 70 P.3d 904 (Utah 2003)
- *Afamefune ex rel. Afamefune v. Suburban Hospital, Inc.*, 385 Md. 677, 870 A.2d 592 (2005)
- *Regions Bank & Trust v. Stone County Skilled Nursing Facility, Inc.*, 345 Ark. 555, 49 S.W.3d 107 (2001)
- *SunBridge Healthcare Corp. v. Penny*, 160 S.W.3d 230 (Tex. App.—Texarkana 2005, no pet.)
- *Murphy v. Russell*, 167 S.W.3d 835 (Tex. 2005) (per curiam)
- *Timberwalk Apartments, Partners, Inc. v. Cain*, 972 S.W.2d 749 (Tex. 1998)
- *Roark v. Allen*, 633 S.W.2d 804 (Tex. 1982)
- *Boyles v. Kerr*, 855 S.W.2d 593 (Tex. 1993)
- *Simmons v. Arnim*, 110 Tex. 309, 220 S.W. 66 (1920)
- *St. Luke's Episcopal Hospital v. Agbor*, 952 S.W.2d 503 (Tex. 1997)
- *Fitzgerald v. Advanced Spine Fixation Systems*, 996 S.W.2d 864 (Tex. 1999)
- *State v. Jackson*, 376 S.W.2d 341 (Tex. 1964)
- *Davis v. Michigan Department of Treasury*, 489 U.S. 803 (1989)

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